



Inter-Parliamentary Union
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Democratic Republic of the Congo

*Decision adopted unanimously by the IPU Governing Council at its 206th session
(Extraordinary virtual session, 3 November 2020)*



© Jean Jacques Mamba

COD-148 – Jean Jacques Mamba

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

On 13 May 2020, Mr. Jean Jacques Mamba filed a petition, which was signed by 62 members of parliament, seeking the removal from office of the First Deputy Speaker of the National Assembly, Mr. Jean-Marc Kabund. This petition came about as a result of Mr. Kabund's refusal to respond to two written requests made by Mr. Jean Jacques Mamba inviting Mr. Kabund to explain the statements he had made regarding the organization of a congress for parliamentarians costing seven million US dollars.

Following the filing of the petition with the National Assembly, member of parliament Mr. Simon Mpiana claimed that his signature had been forged and filed a complaint to the court of cassation. The complainant contends that Mr. Mpiana's accusations were unfounded, in that two members of parliament allegedly attested that Mr. Mpiana had signed the petition in their presence. The former First Deputy Speaker also filed an appeal with the Council of State challenging his removal from office.

Case COD-148

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: Opposition member of parliament

Qualified complainant(s): Section I.(1)(a) of the [Committee Procedure](#) (Annex I)

Submission of complaint: September 2020

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: - - -
- Communication from the complainant: October 2020
- Communication addressed to the authorities: Letter to the Speaker of the National Assembly (September 2020)
- Communication addressed to the complainant: October 2020

On 22 May 2020, Mr. Mamba alerted the police to the attack on his home. The day after the attack, police personnel came to his home and proceeded to arrest him. The complainant alleges that Mr. Mamba's arrest took place under humiliating conditions and in the absence of any documentation authorizing his arrest. Mr. Mamba was reportedly immediately brought before the judge of the court of cassation without being given an opportunity to attend a hearing. According to the complainant, the purpose of this manoeuvre was to make sure Mr. Mamba was convicted on the same day in a bid to quash his petition and thus render it null and void. This was unsuccessful because, after noting the absence of a hearing and of information on the facts justifying his arrest, the court of cassation judge decided to release Mr. Mamba and to place him under house arrest. Furthermore, the National Assembly considered Mr. Mamba's petition after a validation committee verified the 62 signatures. Thus, on 25 May 2020, the First Deputy Speaker was removed from office. This decision was ratified by the Constitutional Court on 17 June 2020.

On 27 May 2020, the National Assembly passed a resolution calling for the suspension of Mr. Mamba's detention and the proceedings against him, pursuant to article 107 of the Constitution, which applies to ongoing parliamentary sessions. On the same day, the court of cassation decided to stay the proceedings until the end of the current parliamentary session.

On 15 September 2020, when the parliamentary session resumed, the prosecution issued a fresh warrant for Mr. Mamba's arrest on the premise that the National Assembly's resolution only applied to the preceding session. Mr. Mamba has since left the country to avoid prison. The complainant adds that the member of parliament has lost all confidence in the justice system, as he claims that the decision to convict him has already been taken.

In a meeting with the IPU Secretary General, the Minister for Human Rights of the Democratic Republic of the Congo affirmed the arbitrary nature of Mr. Mamba's detention. He also reaffirmed his support for the member of parliament and his commitment to upholding the rights of members of parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning Mr. Jean Jacques Mamba is admissible, considering that the complaint: (i) was submitted in due form by complainants qualified under Section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns an incumbent member of parliament at the time of the initial allegations; and (iii) concerns allegations of violation of freedom of opinion and expression, lack of due process at the investigation stage, and threats and acts of intimidation, allegations that fall under the Committee's mandate;
2. *Is greatly concerned* by the fact that Mr. Mamba's arrest appears to have violated his parliamentary immunity and that the legal proceedings against him appear to stem from the legitimate exercise of his parliamentary mandate; *stresses* that Mr. Mamba's petition exceeded the 50 signatures required by the Rules of Procedure of the National Assembly and that, of the 62 signatures collected, only the authenticity of one has been questioned; *notes* that the National Assembly has verified and validated this petition and that the Constitutional Court has upheld the removal from office of the former First Deputy Speaker;
3. *Regrets* that Mr Mamba was forced to leave his country and is therefore unable to participate in the work of the current parliamentary session due to the fresh arrest warrant issued against him;
4. *Points out* that this case must be seen in the context of a large number of other cases in the Democratic Republic of the Congo that have been referred to the Committee on the Human Rights of Parliamentarians and which have so far not been fully resolved; *stresses* that Mr. Mamba's case should therefore prompt the competent authorities to take these concerns in question all the more seriously; *encourages* the authorities to ensure that progress made so far at the political level is not undermined, by taking the necessary steps to guarantee Mr. Mamba's security and uphold his fundamental rights;

5. *Welcomes* steps taken by the National Assembly in this regard following Mr. Mamba's arrest on 22 May 2020 to guarantee his rights, in particular the passing of a resolution on 27 May 2020 calling for the suspension of proceedings against him; *invites* the parliamentary authorities to take all necessary measures to ensure that Mr. Mamba is able to return to the Democratic Republic of the Congo without fear of further arrest and prosecution on the same charges;
6. *Takes note with satisfaction* the support shown by the Minister for Human Rights with respect to Mr. Mamba's rights to exercise his parliamentary mandate; and *expresses the hope* that he will continue to follow up Mr. Mamba's case and that other executive and judicial authorities will do likewise; *wishes* to be kept informed in this respect;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister for Human Rights, the Prosecutor General, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.