



Inter-Parliamentary Union  
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# 138<sup>th</sup> IPU ASSEMBLY AND RELATED MEETINGS

Geneva, 24 – 28.03.2018

Governing Council  
Item 11(b)

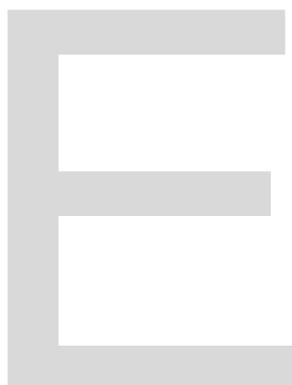
CL/202/11(b)-R.1  
Geneva, 28 March 2018

## Committee on the Human Rights of Parliamentarians

*Decisions adopted by the IPU Governing Council at its 202<sup>nd</sup> session  
(Geneva, 28 March 2018)*

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#IPU138

# Cambodia

*Decision adopted unanimously by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)*



Kem Sokha is escorted by police at his home in Phnom Penh on 3 September, 2017 © AFP

- |                             |                                |
|-----------------------------|--------------------------------|
| KHM27 - Chan Cheng          | KHM76 - Ky Wandara             |
| KHM48 - Mu Sochua (Ms.)     | KHM77 - Lath Littay            |
| KHM49 - Keo Phirum          | KHM78 - Lim Bun Sidareth       |
| KHM50 - Ho Van              | KHM79 - Lim Kimya              |
| KHM51 - Long Ry             | KHM80 - Long Botta             |
| KHM52 - Nut Romdoul         | KHM81 - Ly Srey Vyna (Ms.)     |
| KHM53 - Men Sothavarin      | KHM82 - Mao Monyvann           |
| KHM54 - Real Khemarin       | KHM83 - Ngim Nheng             |
| KHM55 - Sok Hour Hong       | KHM84 - Ngor Kim Cheang        |
| KHM56 - Kong Sophea         | KHM85 - Ou Chanrath            |
| KHM57 - Nhay Chamroeun      | KHM86 - Ou Chanrith            |
| KHM58 - Sam Rainsy          | KHM87 - Pin Ratana             |
| KHM59 - Um Sam Am           | KHM88 - Pol Hom                |
| KHM60 - Kem Sokha           | KHM89 - Pot Poeu (Ms.)         |
| KHM61 - Thak Lany (Ms.)     | KHM90 - Sok Umsea              |
| KHM62 - Chea Poch           | KHM91 - Son Chhay              |
| KHM63 - Cheam Channy        | KHM92 - Suon Rida              |
| KHM64 - Chiv Cata           | KHM93 - Te Chanmony (Ms.)      |
| KHM65 - Dam Sithik          | KHM94 - Tioulong Saumura (Ms.) |
| KHM66 - Dang Chamreun       | KHM95 - Tok Vanchan            |
| KHM67 - Eng Chhai Eang      | KHM96 - Tuon Yokda             |
| KHM68 - Heng Danaro         | KHM97 - Tuot Khoert            |
| KHM69 - Ke Sovannroth (Ms.) | KHM98 - Uch Serey Yuth         |
| KHM70 - Ken Sam Pumsen      | KHM99 - Vann Narith            |
| KHM71 - Keo Sambath         | KHM100 - Yem Ponhearith        |
| KHM72 - Khy Vanndeth        | KHM101 - Yim Sovann            |
| KHM73 - Kimsour Phirith     | KHM102 - Yun Tharo             |
| KHM74 - Kong Bora           | KHM103 - Tep Sothy (Ms.)       |
| KHM75 - Kong Kimhak         |                                |

## Alleged human rights violations

- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Abusive revocation of the parliamentary mandate
- ✓ Lack of due process in proceedings
- ✓ Violation of freedom of movement
- ✓ Threats and acts of intimidation
- ✓ Failure to respect parliamentary immunity

### A. Summary of the case

On 16 November 2017, the Supreme Court dissolved the sole opposition party in Cambodia, the Cambodian National Rescue Party (CNRP). The one page court decision is based on recent legislative amendments that are at odds with the Constitution and with the international human rights obligations of Cambodia. It also banned a total of 118 CNRP leaders (including all 55 CNRP members of the National Assembly) from political life for five years with no possibility of appeal. Their parliamentary mandates were immediately revoked and their seats reallocated to non-elected political parties allegedly aligned with the ruling party.

The dissolution of the CNRP has left the ruling Cambodian People's Party (CPP) - and Prime Minister Hun Sen - with no significant opponent in the run-up to the July 2018 elections. The UN and other international stakeholders have voiced grave concerns about the political environment and its consequences for the conduct of credible, free and fair elections in Cambodia.

The complainant has called for the immediate reinstatement of all parliamentarians and the unhindered participation of the opposition in the elections, claiming that the dissolution of the CNRP violated the fundamental rights of the parliamentarians targeted and was in breach of the Constitution and laws of Cambodia. The Cambodian authorities affirmed that the Supreme Court decision was based on charges of conspiracy with a foreign country to overthrow the legitimate Government. They pointed out that the National Assembly remained a multiparty parliament composed of four political parties.

Following the dissolution of the CNRP, elections for the Senate in February 2018 took place unopposed, with all seats going to the CPP.

The dissolution of the CNRP takes place against the backdrop of long-standing and repeated threats, intimidation or groundless criminal charges against its parliamentarians. They have been repeatedly warned by the Prime Minister that their only choice was to join the ruling party or to be prepared for the dissolution and ban of their party. All the parliamentarians are currently in exile.

Since 2013, some 15 of them have been facing criminal accusations and have been subjected to physical attacks that have gone unpunished. The few assailants who were briefly detained have been released, promoted and reintegrated into the Prime Minister's team of private security guards. The judicial proceedings against opposition parliamentarians have concluded with systematic convictions. Serious issues of due process and lack of judicial independence have been raised. The complainant alleges that the convictions violate the right to freedom of expression of the parliamentarians concerned, who were sentenced for using social media to issue statements criticizing the ruling party and the Prime Minister.

Two former parliamentarians remain in detention (Mr. Kem Sokha and Mr. Um Sam An). Judicial proceedings are still ongoing against Mr. Sam Rainsy and Mr. Kem Sokha. The latter incurs a 30 year

### Case CMBD-Coll.3

**Cambodia:** Parliament affiliated to the IPU

**Victims:** 57 former parliamentarians of the opposition (50 men and 7 women), 55 from the National Assembly and two from the Senate

**Complainant(s):** Section I.1 (a) and (c) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** November 2011

**Recent IPU decision:** [February 2018](#)

**IPU Mission:** [February 2016](#)

#### Recent Committee hearing:

- Hearing with the delegation of Cambodia at the 137<sup>th</sup> IPU Assembly (October 2017)
- Complainant: January 2018

#### Recent follow-up:

- Communication from the authorities: Letters of the Secretary General of the National Assembly (March 2018)
- Communication from the complainant: January 2018
- Communication from the IPU to the Secretary General of the National Assembly (March 2018)
- Communication from the IPU to the complainant: March 2018 ■

prison term for planning to overthrow the Government. The charge is essentially substantiated by a 2013 TV speech in which Mr. Kem Sokha calls for peaceful political change in Cambodia without at any point inciting violence, hatred or uttering defamatory words.

Mr. Kem Sokha remains detained in solitary confinement and his health has allegedly deteriorated in recent months. The Cambodian authorities denied the IPU permission to visit Mr. Kem Sokha in detention.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes with consternation* that all 55 parliamentarians of the only opposition party elected to the National Assembly were stripped of their parliamentary mandates and were banned from political life as a result of a Supreme Court ruling and on the basis of legislation which ran completely counter to their individual and collective rights to take part in the conduct of public affairs and their right to a fair trial; *is deeply concerned* that all 55 opposition members of the National Assembly of Cambodia were promptly replaced by non-elected political parties allegedly aligned with the ruling party, which only reinforces the perceived political motivation for the Supreme Court decision;
2. *Concludes* that these latest repressive measures clearly constitute violations of the fundamental rights of the parliamentarians concerned; *observes with regret* that they are sadly reminiscent of a long-standing pattern of abuse against the opposition that has been documented by the IPU before every election in Cambodia in the past;
3. *Is deeply concerned* that these measures leave the ruling party with no significant challenger ahead of the upcoming general elections and therefore deprive a significant part of the Cambodian population from parliamentary representation and from the ability to freely exercise their right to vote for the political representatives of their choice; therefore *expresses serious concerns* about the conduct of credible, free, fair and transparent elections in July 2018;
4. *Urges* the Cambodian authorities to immediately reinstate all 55 members of the CNRP in the National Assembly, and to resume the political dialogue and allow the CNRP to field candidates for the upcoming elections; *reiterates its call* on the Cambodian authorities to take urgent measures to end the ongoing harassment of the CNRP and its members, as well as provide all appropriate guarantees to ensure that those who have gone into exile are able to return safely, without delay, to resume their political activities within the CNRP and to campaign freely in the run-up to the fast-approaching elections, without fear of reprisals;
5. *Seriously questions* the current integrity and legitimacy of the parliamentary institution as a whole in Cambodia in light of these recent developments and the lack of a level playing field in the lead-up to the general elections, which go directly against the core principles of parliamentary democracy, multi-party liberalism and of a governance system based on the rule of law; *recalls* that, pursuant to the principles and values defended by the IPU, as enshrined in the Universal Declaration on Democracy adopted by the IPU in September 1997, “a state of democracy ensures that the processes by which power is acceded to, wielded and alternated allow for free political competition and are the product of open, free and non-discriminatory participation by the people, exercised in accordance with the rule of law, in both letter and spirit”; *urges* for increased tolerance and acceptance of the role of the political opposition in Cambodia;
6. *Reiterates* the availability of the IPU to facilitate the resumption of a political dialogue and to mediate between the parties;
7. *Invites* the global parliamentary community, primarily through IPU member parliaments, as well as other relevant international, regional and domestic stakeholders, to engage in joint efforts to help resolve the current crisis in a manner consistent with democratic and human rights values,

including by facilitating the resumption of a political dialogue, adopting public statements and making representations to the Cambodian authorities;

8. *Requests* the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Maldives

*Decision adopted unanimously by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)*



Police prevent members of parliament from entering the People's Majlis, 24 July 2017  
© Munshid Mohamed

- |                                         |                                  |
|-----------------------------------------|----------------------------------|
| MDV16 - Mariya Didi (Ms.)* <sup>1</sup> | MDV54 - Ibrahim Shareef*         |
| MDV28 - Ahmed Easa                      | MDV55 - Ahmed Mahloof*           |
| MDV29 - Eva Abdulla (Ms.)*              | MDV56 - Fayyaz Ismail*           |
| MDV30 - Moosa Manik*                    | MDV57 - Mohamed Rasheed Hussain* |
| MDV31 - Ibrahim Rasheed                 | MDV58 - Ali Nizar*               |
| MDV32 - Mohamed Shifaz                  | MDV59 - Mohamed Falah*           |
| MDV33 - Imthiyaz Fahmy*                 | MDV60 - Abdulla Riyaz*           |
| MDV34 - Mohamed Gasam                   | MDV61 - Ali Hussain*             |
| MDV35 - Ahmed Rasheed                   | MDV62 - Faris Maumoon*           |
| MDV36 - Mohamed Rasheed                 | MDV63 - Ibrahim Didi*            |
| MDV37 - Ali Riza                        | MDV64 - Qasim Ibrahim*           |
| MDV39 - Ilyas Labeeb                    | MDV65 - Mohamed Waheed Ibrahim*  |
| MDV40 - Rugiyya Mohamed (Ms.)           | MDV66 - Saud Hussain*            |
| MDV41 - Mohamed Thoriq                  | MDV67 - Mohamed Ameeth*          |
| MDV42 - Mohamed Aslam*                  | MDV68 - Abdul Latheef Mohamed*   |
| MDV43 - Mohammed Rasheed*               | MDV69 - Ahmed Abdul Kareem*      |
| MDV44 - Ali Waheed                      | MDV70 - Hussein Areef*           |
| MDV45 - Ahmed Sameer                    | MDV71 - Mohamed Abdulla*         |
| MDV46 - Afrasheem Ali                   | MDV72 - Abdulla Ahmed*           |
| MDV48 - Ali Azim*                       | MDV73 - Mohamed Musthafa*        |
| MDV49 - Alhan Fahmy                     | MDV74 - Ali Shah*                |
| MDV50 - Abdulla Shahid*                 | MDV75 - Saudhulla Hilmy*         |
| MDV51 - Rozeyna Adam (Ms.)*             | MDV76 - Hussain Shahudhee*       |
| MDV52 - Ibrahim Mohamed Solih           | MDV77 - Abdullah Sinan*          |
| MDV53 - Mohamed Nashiz                  | MDV78 - Ilham Ahmed*             |

\* (Re-)elected to parliament in the elections of March 2014.

## Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Threats, acts of intimidation
- ✓ Murder
- ✓ Violation of freedom of movement

### A. Summary of the case

Following the controversial transfer of power in February 2012, there have been serious and credible reports and allegations of arbitrary arrest, ill-treatment, attacks and death threats against several opposition members of the People's Majlis, most of whom belong to the Maldivian Democratic Party (MDP).

Since the 2014 parliamentary elections, the opposition has repeatedly claimed that the ruling Progressive Party of Maldives (PPM), with the support of the Speaker of the People's Majlis, has systematically limited the space for the opposition to contribute meaningfully to the work of parliament, and that parliament has adopted laws that seriously diminish human rights, including the rights to freedom of expression and assembly. The parliamentary authorities have denied these allegations.

Tension and violence erupted after an opposition alliance and defections from the PPM galvanized the opposition to move a no-confidence motion against the Speaker in March 2017. The Elections Commission and the PPM subsequently used the Supreme Court ruling of 13 July 2017 to affirm that the 12 members of parliament who had defected from the PPM had lost their seats in parliament. In their absence, the attempts by the opposition to pass the no-confidence motion failed.

The political crisis in Maldives took a further turn for the worse in the aftermath of the ruling by the Supreme Court on 1 February 2018 to release nine high-profile politicians and to reinstate the 12 members of parliament, thereby giving the opposition a majority in parliament. President Yameen has refused to implement the ruling, claiming it to be unlawful, and on 6 February 2018 declared a state of emergency, which was extended by 30 days on 20 February. The opposition and its supporters have protested against the refusal to respect the ruling, have contested the validity of the state of emergency and are boycotting parliament.

More than a dozen members of parliament were arrested under the state of emergency, which expired on 22 March 2018 and was not extended. Most were released shortly after their arrest, although it is not clear whether they are still under investigation. Shortly before the state of emergency expired, the Prosecutor General's Office announced charges of terrorism - concerning an alleged plot to overthrow the Government - against 11 high-profile individuals, including the four members of parliament Mr. Faris Maumoon, Mr. Abdulla Riyaz, Mr. Abdulla Sinan and Mr. Ilham Ahmed, and ordered that they remain in detention until the end of the trial. Three other members of parliament, namely Mr. Ahmed Mahloof, Mr. Ibrahim Mohamed Solih and Mr. Ali Azim, are also still in detention. While 10 other members of parliament are at liberty, they are facing charges, most of which date back to 2017. The opposition claims that all of this is part of a pattern of intimidation and repression by the authorities.

A delegation mandated by the Committee on the Human Rights of Parliamentarians carried out a mission to Maldives from 19 to 21 March 2018 to address ongoing and new concerns.

#### Case MDV-Coll.1

**Maldives:** Parliament affiliated to the IPU

**Victims:** 50 opposition members of parliament, except Mr. Afrasheem Ali, a member of the majority (46 men and four women)

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

**Submission of complaint:** February 2012

**Recent IPU decision:** [October 2017](#)

**IPU Missions:** March 2018, [October 2016](#), November 2013, [November 2012](#),

#### Recent Committee hearing:

Hearing with the Maldives delegation at the 137<sup>th</sup> IPU Assembly (October 2017)

#### Recent follow-up:

- Communication from the authorities: Letter from the Deputy Secretary General of the People's Majlis (March 2018)
- Communication from the complainant: March 2018
- Communication from the IPU: Letter addressed to the Speaker of the People's Majlis (February 2018)
- Communication addressed to the complainant: March 2018 ■

## B. Decision

### The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker for receiving the mission and for all the arrangements made;
2. *Thanks* the delegation for its work; *looks forward* to receiving its full written report, which will be shared with the authorities, complainants and relevant third parties for their comments;
3. *Takes note*, in the meantime, of the delegation's following preliminary observations and recommendations:

- The delegation is deeply concerned about the continued political instability in Maldives, which appears to be the result of a variety of factors, including a “winner-takes-all” political mentality, lack of a culture of political dialogue, reports of widespread corruption, systematic floor crossing in parliament and the absence of a fully independent judiciary and independent oversight institutions. The delegation underscores that the next 12 months, with a presidential election in September 2018 and parliamentary elections in March 2019, are bound to lead to further tension if the underlying causes for the continued political instability and the perceived absence of a level playing field for the participation of presidential candidates are not seriously addressed.

The delegation therefore calls on all political stakeholders in Maldives to decisively work together to effectively address the causes for continued political instability. The delegation also calls on the authorities to do everything in their power to ensure that the planned presidential and parliamentary elections will be free and fair and are perceived as such.

- The delegation considers that the revocation of the mandate of the 12 members of parliament has to be seen in the light of the aforesaid factors causing continued political instability. That said, the delegation believes that there are clear indications that their revocation was arbitrary, including the following: (i) despite widespread floor crossing since 2014, only the 12 members of parliament who defected from the main ruling party lost their seats; (ii) the Supreme Court ruling of 13 July 2017 was adopted less than three days after the matter was brought before it, at a time when a vote on the no-confidence motion against the Speaker was imminent and likely to pass with the support of the 12 members of parliament; (iii) several of the 12 members of parliament, such as Mr. Abdul Latheef and Mr. Mohamed Abdulla, took all the necessary steps, as attested by documentation provided to the delegation, to renounce their party membership before 13 July 2017, which the Supreme Court considered to be the date from when floor crossing would be banned; and (iv) the recently adopted Anti-Defection Act retroactively approves the revocation of the 12 members of parliament, instead of applying to future cases only.

The delegation therefore calls on the Maldivian authorities to allow the 12 members of parliament to take their seats in the People's Majlis as soon as possible.

- The delegation is concerned about the attempts to thwart the no-confidence motion against the Speaker in 2017, in particular the events that occurred on 24 July 2017, including the forcible removal of several members of parliament from the People's Majlis. The delegation considers that parliament should be accessible to its members at all times, and is therefore deeply concerned that several parliamentarians are still facing legal proceedings for attempting to access the parliament that day.

The delegation therefore calls on the Maldivian authorities to withdraw these charges forthwith.

- The delegation is deeply concerned about the wave of arrests of members of parliament under the state of emergency, the charges brought against four parliamentarians, and their detention until the end of their trial on charges of terrorism. The delegation is also concerned at the continued detention of three other members of parliament.

The delegation calls on the authorities to fully ensure that all members of parliament enjoy the right to a fair trial, and that any cases against them are brought diligently and swiftly before the courts and only when clear evidence is available. The delegation believes that it would be very useful to send a trial observer to the court proceedings in one or more of these cases.

- The delegation has received contradictory information about the conditions of detention of the members of parliament, which it will describe in its full mission report. The delegation regrets, therefore, that it was not allowed to meet the members of parliament in detention to assess their situation.

The delegation trusts that the authorities are taking all the necessary steps to ensure that the detained members of parliament are being kept in proper conditions and have access to their family, lawyers and a doctor.

- The delegation is concerned that, with the opposition boycotting parliament, legislation that falls under article 87(b) of the Constitution is being passed without half the members being present, as is required. The delegation is also concerned that the ruling parties and the opposition appear to be unable to use parliament as the platform to discuss their differences and find common solutions.

The delegation calls on the parliamentary authorities to ensure that parliament fully abides by the Constitution when conducting its work and calls on all sides to engage in constructive political dialogue. The delegation encourages all sides to make use of the expertise and the platform that IPU can offer to promote such dialogue.

4. *Requests* the Secretary General to bring these preliminary findings and recommendations to the attention of the relevant authorities, complainants and interested third parties;
5. *Requests* the Committee to continue its examination of the cases at hand and to report back to it in October 2018 in light of the full mission report and any observations received.

# Mongolia

*Decision adopted by consensus by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)<sup>2</sup>*



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## MNG01 - Zorig Sanjasuuren

### Alleged human rights violations

- ✓ Murder

#### A. Summary of the case

Mr. Zorig Sanjasuuren (“Mr. Zorig”) was assassinated on 2 October 1998. Regarded by many as the father of the democratic movement in Mongolia in the 1990s, Mr. Zorig was a member of parliament and acting Minister of Infrastructure. At the time, Mongolia was undergoing a period of political upheaval after the breakdown of the coalition government. Negotiations were in place to select the next Prime Minister. Mr. Zorig was being considered as a candidate for the post on the day he was killed. The murder is widely believed to have been a political assassination that was covered up.

Since a parliamentary report in July 2000 harshly criticized the severe deficiencies in the initial investigation, the Mongolian authorities have repeatedly affirmed that every effort was being made to identify the murderers and bring them to justice. Successive judicial investigative working groups were established and parliamentary committees were mandated to monitor, support and exercise oversight of the investigation.

However, little progress was reported. By mid-2015, nobody had been held accountable and the authorities affirmed that no suspects had been identified. The investigation was entirely shrouded in secrecy, considered a “state secret” and handled primarily by the intelligence services, with recurring allegations over the years that a number of persons had been pressured and tortured in order to obtain confessions.

#### Case MNG01

**Mongolia:** Parliament affiliated to the IPU

**Victim:** A male parliamentarian of the majority

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

**Submission of complaint:** October 2000

**Recent IPU decision:** [October 2017](#)

**IPU Missions:** September 2017, [September 2015](#), August 2001

**Recent Committee hearing:** Hearing with the delegation of Mongolia at the 138<sup>th</sup> IPU Assembly (March 2018)

#### Recent follow-up:

- Communication from the authorities: Letter of the Deputy Speaker of the State Great Hural, November 2017
- Communications from the complainant: March 2018
- Communications from the IPU to the executive, judicial and parliamentary authorities (February 2018)
- Communication from the IPU addressed to the complainant: March 2018 ■

<sup>2</sup>

The delegation of Mongolia expressed its reservations regarding the decision.

Between late 2015 and 2017, suspects were suddenly arrested, expeditiously tried and sentenced during trials closed to the public shortly before the presidential elections. The trials were held in the absence of the only eyewitness of the assassination, Ms. Banzragch Bulgan ("Ms. Bulgan"), Mr. Zorig's widow. She was herself treated as a suspect and held in solitary confinement in conditions tantamount to torture. The other suspects also appear to have been exposed to torture to force them to admit involvement in the assassination. On 27 December 2016, the three main accused were sentenced to prison terms of 23 to 25 years for killing Mr. Zorig on the orders of an unidentified mastermind. These sentences were upheld by the Appeals Court and the Supreme Court.

In September 2017, a delegation of the IPU Committee on the Human Rights of Parliamentarians visited Mongolia to seek further information on these developments and concerns. During the visit, neither the parliamentary authorities nor Mr. Zorig's family or the Mongolian people considered that justice had been done despite the recent convictions.

The final mission report fully confirms the preliminary observations and recommendations of the Committee presented during the 137<sup>th</sup> IPU Assembly (St. Petersburg, October 2017). Its main findings and recommendations are the following:

- Serious violations of international fair trial standards have taken place. Prior IPU recommendations have not been implemented by the Mongolian authorities. Intimidation and pressure are being exercised against all persons taking an interest in the case.
- The Committee is deeply worried that the recent trial proceedings were aimed at covering up for the real culprits of the assassination (direct perpetrators, organizer(s) and mastermind(s)). The three convicted persons appear to have been framed by the intelligence services and pressured to make false confessions. Their involvement in the crime is seriously questioned on account of suspicious inconsistencies and exculpatory evidence brought to the attention of the Committee. The mastermind(s) remain unidentified and serious due process issues persist in relation to the ongoing investigation.
- The Committee remains concerned about the conditions of detention of the three convicted persons and the fact that their families appear to face ongoing intimidation and pressure. It is equally worried by the fact that Ms. Bulgan and other persons are still kept under close surveillance and barred from travelling abroad although the criminal charges against them have been dropped.
- The Committee calls upon the Mongolian authorities to declassify the case and conduct, without further delay, a fair and open retrial before an independent and impartial court in the presence of international and domestic observers. The delegation strongly believes that justice must be provided to Mr. Zorig's family, as well as to the convicted persons and their families, to avoid a serious miscarriage of justice. Given the profound distrust that has developed over the years, this is a crucial test of the ability of the Mongolian judiciary to demonstrate that it operates under the rule of law and has not become hostage to political and commercial interests. A proactive and impartial exercise of the oversight functions of the State Great Hural is also needed if there is to be any progress in the case.

The following updated information and observations were received since the mission took place:

- In December 2017, the Mongolian Government decided that most of the files relating to the Zorig case should be declassified.
- The Mongolian media published a long and detailed letter written by Mr. B. Sodnomdarjaa, one of the persons sentenced for the murder of Mr. Zorig who is in prison, and to whom access was denied to the IPU delegation during its mission. In the letter, Mr. Sodnomdarjaa affirmed that he was pressured and mistreated in detention to confess to the murder. The letter provides many details, including the dates and names of the persons involved, who include intelligence officers.
- The family of Mr. Zorig submitted a formal communication in early March 2018 and endorsed the findings and recommendations of the mission report. The family states the following: "We seriously question that the justice is done .... We fear that the convicted three were wrongfully convicted .... We are disappointed in our judicial system: we feel that the case was not resolved in an independent, impartial and just manner .... We call upon our authorities to remedy this grave situation and ask IPU to support fair and true justice."

- Three separate official communications were received from the Mongolian authorities on 24 March 2018. They object to the findings of the mission report.
  - The Prosecutor General's Office submitted detailed legal observations on the mission report. These observations point out that the trial proceedings were conducted fully in line with Mongolia's Constitution and laws. They refer to legal provisions and documents but no supporting documentation was enclosed. They conclude that the mission conclusions are unfounded and one-sided because they rely on the "opposite side's information" also referred to as "unproven, non-factual information provided by the family members of Mr. B. Sodnomdarjaa and Mr. T. Chimgee [two of the three persons convicted of murdering Mr. Zorig S.], people who have [a] conflict of interest to the case and a certain group of people who are intentionally obstructing the court procedure" even if the delegation "heard about the reality during the meeting with the Deputy State General Prosecutor and the Head of the General Intelligence Agency".
  - The National Human Rights Commission confirmed that the three persons convicted of the assassination and Ms. Bulgan filed eight complaints to the Commission from August 2015. It stated that "the Commission resolved the complaints within its mandate" and referred them to the Prosecutor General, the General Executive Agency of Court Decisions and the General Intelligence Agency. No details were included on the substance of the complaints or how they were resolved.
  - In its observations, the Mongolian Parliament recalled that it could only act within the limits of the constitutional provisions related to the separation of powers and the independence of the judiciary. It confirmed that upon receiving the letters of concern from the IPU, it had sought clarifications from the relevant authorities in order to convey their responses. It confirmed that part of the files concerning the case of the perpetrators had been recently disclosed by the Government. As to the separate case to identify the organizer or mastermind, nobody had yet been identified and the case was still under State confidentiality and could not be disclosed. The Parliament confirmed that as part of its oversight function, it would continue to observe the process and developments in the case, to keep the IPU informed and to cooperate in efforts to seek justice and fairness to solve this case under the existing Mongolian laws.

During the hearing held at the 138<sup>th</sup> IPU Assembly, the Deputy Speaker of the State Great Hural and other members of the delegation of Mongolia said that the situation was different now that the Government had declassified part of the files. The Parliament would be pleased to welcome a new visit of the Committee to Mongolia to introduce its members to the declassified files now available in the archives. Furthermore, bodies such as the parliamentary human rights subcommittee or the national human rights commission were now also authorized to review the declassified case materials and would make their own verifications.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the authorities of Mongolia for sharing their observations on the final report of the mission conducted to Mongolia in September 2017 by the Committee on the Human Rights of Parliamentarians; *is grateful* to the Deputy Speaker of the State Great Hural and the delegation of Mongolia for making themselves available at short notice to meet with the members of the Committee during the 138<sup>th</sup> IPU Assembly; *also thanks* the family members of Mr. Zorig for their observations;
2. *Fully endorses* the conclusions and recommendations of the mission report while *taking due note* of the updated information and the observations received;
3. *Considers* that the judicial proceedings that were completed in 2017 cannot be regarded as a legitimate and credible effort to establish truth and accountability in the Zorig case as they were not in line with international human rights standards of due process and fair trial; *recalls* that conducting expedited secret trials on the basis of secret evidence can never be seen as serving justice or the rule of law;

4. *Is deeply worried* that the three convicted persons may have been framed by the intelligence services and pressured into making false confessions; *renews its call* to the relevant authorities of Mongolia urgently to conduct a public retrial in a fair, just and transparent manner in the presence of domestic and international observers, including an IPU observer, to avoid a serious miscarriage of justice;
5. *Notes with satisfaction* the Government's decision to declassify a large part of the case files and the fact that the State Great Hural's human rights subcommittee is now authorized to review the declassified case files; *welcomes* the renewed commitment of the Parliament to exercise parliamentary oversight to ensure that justice is done and seen to be done in the present case while respecting the separation of powers; *hopes* to be kept apprised of the action taken by the Parliament and their results on a regular basis;
6. *Welcomes* the invitation extended by the Deputy Speaker for another IPU visit to introduce the members of the Committee to the now accessible declassified files; *wishes*, before sending another delegation to Mongolia, first to receive the key documents and answers to the questions that the Committee has been seeking for a long time from the relevant authorities, starting with copies of all court verdicts delivered in the case;
7. *Remains deeply concerned* about the use of investigative methods by intelligence officers that involve torture, intimidation and pressure and the apparent lack of any independent accountability mechanisms to facilitate and address such complaints under Mongolia's current legislation; *calls* for urgent measures to be taken to end all acts of intimidation, pressure and surveillance against family members of the convicted persons and against witnesses and former suspects, as well as the immediate lifting of all restrictions on the freedom of movement of persons who are not currently formally charged by a court as suspects in the case; *also invites* the Parliament to undertake appropriate legislative reform to address these issues;
8. *Deplores* once more that the case continues to be used as a political bargaining chip by all political parties; *stresses* that the delegation that travelled to Mongolia was particularly careful to collect information and documentation from a wide variety of sources from all sides before, during and after its mission so as to make an objective and thorough assessment in its final report; *recalls* that the authorities of Mongolia have failed to answer many of the questions of the delegation and to provide supporting documentation on the grounds of the State secrecy; *reiterates its deep regret* that the delegation was not allowed to meet with the detainees or with any representatives of the judicial branch, which factor was not conducive to alleviating the serious concerns reflected in the mission report;
9. *Wishes* to be kept apprised of new developments related to the case by the parliamentary and other relevant authorities;
10. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information and to follow up with them to obtain all necessary information and documentation before organizing a new visit;
11. *Requests* the Committee to continue examining this case and to report back in due course.

# Niger

*Decision adopted by consensus by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)*<sup>3</sup>



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## NER115 - Amadou Hama

### Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ Lack of due process
- ✓ Violation of freedom of opinion and expression

### A. Summary of the case

Mr. Amadou Hama, former Speaker of the National Assembly, leader of the MODEN/FA Lumana-Africa party and head of the opposition, has been exiled in France since 2014 as a result of legal proceedings being brought against him. His parliamentary immunity was lifted in August 2014 by the Bureau of the National Assembly, when parliament was in recess, without Mr. Hama being given a preliminary hearing.

Having returned to Niger in November 2015 to face justice and to campaign as a candidate in the presidential election, Mr. Hama was arrested as he stepped off the plane. Despite having been unable to campaign because of his detention, Mr. Hama came second in the first round of the presidential election, on 21 February 2016. The opposition then withdrew from the electoral process, making allegations of fraud. On 16 March 2016, Mr. Hama was granted a transfer to France, officially for medical reasons. The outgoing President was re-elected in the second round of voting on 20 March.

After many procedural complications, Mr. Hama was convicted in absentia and sentenced to one year in prison in March 2017 for the offence of aiding and abetting the concealment of newborns, together with around 30 other people, including his wife. They were accused of having purchased babies in Nigeria from a woman suspected of being the head of a subregional child trafficking ring. Mr. Hama

### Case NER115

**Niger:** Parliament affiliated to the IPU

**Victim:** A male opposition member of the National Assembly

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

**Submission of complaint:** October 2014

**Recent IPU decision:** [February 2018](#)

**IPU Mission:** - - -

**Recent Committee hearings:** - - -

Hearings with the complainant and the delegation of Niger during the 138<sup>th</sup> IPU Assembly (March 2018)

**Recent follow-up:**

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2018)
- Communication from the complainant: March 2018
- Communication from the IPU to the Speaker of the National Assembly (February 2018)
- Communication from the IPU to the complainant: March 2018 ■

<sup>3</sup> The delegation of Niger expressed its reservations regarding the decision.

lodged a number of appeals, including one to the Constitutional Court, which handed down its judgment on 21 March 2018, and one to the Court of Cassation, on which the Court has yet to rule.

The children of the couples convicted in March 2017 were taken from them and placed in orphanages, with the exception of Mr. Hama's children, who were taken out of Niger in order to avoid the same fate. The children are currently in hiding in Nigeria with their mother – who has finished serving her sentence in Niger - and are reportedly enrolled in school there. Proceedings are reportedly under way to have the children transferred to an orphanage in Niger.

The complainant alleges that Mr. Hama's parliamentary immunity and defence rights were violated, that the charges brought against him are unfounded and that proceedings were neither impartial, independent nor fair. The complainant affirms that no evidence against Mr. Hama or his wife was provided by the prosecution or judges (unlike in the case of the other couples charged). The complainant submitted exculpatory evidence that he says was not taken into account. The complainant points out that the Nigerian woman presumed to be at the centre of the suspected trafficking ring was never brought before the courts. The complainant considers that Mr. Hama has been the victim of acts of political and legal harassment since his party sided with the opposition in August 2013. He emphasizes that these acts intensified when Mr. Hama refused to resign from his post of Speaker of the National Assembly and in the run-up to the presidential election in February 2016. The complainant points out that Mr. Hama's children, on whose account legal proceedings have been brought in order to have them placed in orphanages in Niger, are the main victims in the case at hand, which is likely to affect them their entire lives, and considers that their best interests should take precedence.

The parliamentary authorities maintain that the case is in no way politically motivated. The procedure to authorize the lifting of parliamentary immunity was conducted in accordance with the Constitution and the Rules of Procedure. New Rules of Procedure were adopted in March 2017 and, according to the Speaker of the National Assembly, the procedure is now better regulated. The charges against Mr. Hama were made following a judicial investigation lasting several months, and Mr. Hama's conviction, and those of the 30 or so others who were jointly prosecuted, were set out in judgments handed down by an independent judiciary in accordance with the Constitution of Niger. The authorities emphasize that none of the other convicted couples lodged an appeal, and that they have now finished serving their sentences. They confirm that the convicted couples' children were removed from them and placed under the authority of the State, for their protection, in consequence of a lawful order of a court.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Niger and the complainant for the information shared in the hearings with the Committee on the Human Rights of Parliamentarians held during the 138<sup>th</sup> IPU Assembly;
2. *Commends* the National Assembly for appointing an inclusive delegation to the 138<sup>th</sup> IPU Assembly; *welcomes* the fact that the Committee on the Human Rights of Parliamentarians was able to hear the different views on the case held by the various parties making up the delegation; *notes* the view of the National Assembly that it cannot take up the case owing to the principle of the separation of powers and the independence of the judiciary; *encourages* it nevertheless to continue dialogue and to transmit the concerns that persist in this case to the competent authorities and to actively undertake to facilitate a solution in accordance with the Constitution of Niger;
3. *Deplores* the fact that no progress has been made to enable the case to be settled in a satisfactory manner; *expresses concern* about the current situation of Mr. Hama and his family, particularly that of the two children involved; *recalls* that under the Convention on the Rights of the Child, ratified by Niger, and in particular article 9 thereof, States Parties are obliged to ensure that a child shall not be separated from his or her parents against their will, except where such separation is necessary for the best interests of the child, for example in cases of abuse or neglect; *stresses* that, regardless of the children's biological parentage, which is a key aspect of

the present case, Mr. Hama and his wife consider themselves to be the children's parents, and appear to have always behaved as such; *considers* therefore that the decision to place the children in an orphanage, and the ongoing proceedings in their regard, do not take into account the children's best interests; *calls upon* the Niger authorities to comply with their obligations regarding the rights of the child; *hopes* that all the competent authorities, including the judiciary, will take into account this fundamental aspect of the case;

4. *Deeply regrets* that it has not been kept informed by the parties of the dates of Mr. Hama's trial and that it has therefore not been able to send an independent observer, despite its requests to that end; *stresses* the major differences of opinion between the parties, and the many procedural complications that continue to exist in this complex case;
5. *Notes* that this case continues to be a sensitive one at the current time, and that it has an undeniable political dimension, in view of the following factors: the history of relations between Mr. Hama and the Head of State; the fact that Mr. Hama is the head of the opposition; the fact that he aspires to be President of the Republic; the manner and circumstances in which his parliamentary immunity was lifted by the Bureau of the National Assembly during parliamentary recess, without this being subsequently confirmed in plenary, despite a problematic and controversial procedural legal vacuum; the many grey areas in the "baby trafficking" case, including the continuing lack of clarity concerning evidence of Mr. Hama's and his wife's guilt, in terms of the relevant judgments handed down and the complainant's allegations; and lastly, the clear connection between the key stages in Mr. Hama's prosecution and the political calendar, in particular the latest presidential election;
6. *Expresses the wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit Niger, possibly extending the visit to include Nigeria, in order to carry out additional checks, talking directly with all actors involved, in particular with those in the judiciary and the executive, and to encourage the parties to re-establish political dialogue and find a satisfactory solution to this case; *hopes* to receive a positive reply from the National Assembly to this end, and assistance from the Assembly to enable the mission to proceed smoothly;
7. *Recalls* the Committee's previous conclusions, according to which Mr. Hama's defence rights were not respected during the parliamentary procedure for lifting his immunity, since he was not given a preliminary hearing; *notes with interest* that the Rules of Procedure of the National Assembly have been amended to better regulate the lifting of parliamentary immunity by the Bureau when parliament is in recess; *requests* the Speaker of the National Assembly to provide a copy of the amended provisions;
8. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be able to provide relevant information; and *requests* him also to take all necessary steps to organize the mission by the Committee on the Human Rights of Parliamentarians;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Niger

*Decision adopted by consensus by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)<sup>4</sup>*



© Seidou Bakari

## NER116 - Seidou Bakari

### Alleged human rights violations

- ✓ Arbitrary detention
- ✓ Lack of due process and excessive delays in proceedings
- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of opinion and expression

### A. Summary of the case

On 28 July 2015, the Bureau of the National Assembly authorized the arrest of parliamentarian Seidou Bakari, chairperson of the MODEN/FA Lumana-Africa parliamentary group, without giving him a preliminary hearing. He was not re-elected and was arrested when his parliamentary mandate came to an end on 16 May 2017, since which date he has been held in pre-trial detention.

Mr. Bakari is accused of having embezzled public funds in 2005, when he was coordinator of a food emergency committee (CCA) that answered to the Office of the Prime Minister. At the time, the prime minister was Mr. Amadou Hama (NER115), currently the head of the opposition. According to the complainant, Mr. Bakari's parliamentary immunity was not respected and he was not given a hearing by the Bureau before his immunity was lifted, despite the fact that no criminal charges had yet been brought against him.

The complainant believes that Mr. Bakari's continued detention, and the lack of progress of the legal proceedings, are deliberate acts which constitute violations of Mr. Bakari's fundamental right to be given a fair hearing without undue delay. Mr. Bakari's applications for bail were allegedly refused, in violation of the Code of Criminal Procedure. The complainant also alleges that the rights of the defence were violated, and that the investigating judge ignored exculpatory evidence provided by Mr. Bakari's lawyer. According to the complainant, a hearing took place on 23 March 2018 following a

### Case NER116

**Niger:** Parliament affiliated to the IPU

**Victim:** A male opposition member of the National Assembly

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

**Submission of complaint:** September 2015

**Recent IPU decision:** [February 2018](#)

**IPU Mission:** - - -

**Recent Committee hearings:** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2018)
- Communication from the complainant: March 2018
- Communication from the IPU to the Speaker of the National Assembly (February 2018)
- Communication from the IPU to the complainant: February 2018 ■

<sup>4</sup> The delegation of Niger expressed its reservations regarding the decision.

request by Mr. Bakari's lawyer for the investigating judge to be taken off the case. The ruling is expected on 13 April.

The complainant asserts that the charges brought against Mr. Bakari are unfounded, and that no funds were embezzled by the food emergency committee (CCA). He states that Mr. Bakari was tasked simply with implementing decisions taken collectively by the CCA, and had no power to take individual decisions or order expenditure. He pointed out that all the CCA's decisions were recorded in writing. He recalled that Niger's international partners had been satisfied with the way the funds and the food crisis were being managed, at the time, and had officially thanked Mr. Bakari for his work (letter transmitted by the complainant). According to the complainant, several international audits had been carried out over the years of the CCA's operation, in order to certify its accounts.

The complainant asserts that Mr. Bakari is the victim of political and judicial harassment purely because he is a member of the opposition and a close collaborator of Mr. Amadou Hama. As a deputy, and as chairperson of his parliamentary group, he supported Mr. Hama – then Speaker of the National Assembly – when the latter was subjected to criminal proceedings after announcing that his party would be siding with the opposition at the next presidential elections.

The parliamentary authorities affirmed that they followed the procedure for lifting parliamentary immunity. New Rules of Procedure were adopted in March 2017 and, according to the Speaker of the National Assembly, the procedure is now better regulated. No information was provided by the authorities on the other allegations, neither on the alleged acts being prosecuted nor the reasons why charges were brought against Mr. Bakari 12 years after the acts in question. The Speaker of the National Assembly said he had been unable to obtain any answers owing to the principle of the separation of powers and the confidentiality of preliminary investigations, but that the investigating judge would soon be handing down a ruling on the case.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Niger and the complainant for the information shared during the hearings with the Committee on the Human Rights of Parliamentarians during the 138<sup>th</sup> IPU Assembly;
2. *Commends* the National Assembly for appointing an inclusive delegation to the 138<sup>th</sup> IPU Assembly; *welcomes* the fact that the Committee on the Human Rights of Parliamentarians was able to hear the different views on the case taken by the various parties making up the delegation; *notes* the view of the National Assembly that it cannot take up the case owing to the principle of the separation of powers and the independence of the judiciary; *encourages* it nevertheless to continue dialogue and to transmit the concerns that persist in this case to the competent authorities and to actively undertake to facilitate a solution in accordance with the Constitution of Niger;
3. *Is concerned at* the length of Mr. Bakari's continued pre-trial detention, which does not appear to be in keeping with articles 131 and 133 of the Code of Criminal Procedure, and at the length of the preliminary investigation, in which no progress appears to have been made; consequently, *invites* the competent authorities to release him immediately, and to expedite the processing of the case;
4. *Expresses its concern* also regarding the merits of the charges brought against Mr. Bakari, given the substantial information and documentation provided by the complainant and the lack of response by the authorities on the issue;
5. *Urges* the Niger authorities to do their utmost to guarantee that the case is processed quickly, fairly and independently, in strict compliance with national and international fair trial standards and the fight against corruption; *requests* the authorities to keep it informed of the decisions to be taken by the Appeal Court and the investigating judge and, if appropriate, of the trial dates,

so as to be able to send an observer; *reiterates its request* that the authorities provide their observations and more detailed information on the case regarding the allegations made by the complainant;

6. *Notes* that this case has an undeniable political aspect to it, and that the proceedings brought against Mr. Bakari have evident similarities with those brought against the president of his party, Mr. Amadou Hama (NER115) – whose case is also before the Committee on the Human Rights of Parliamentarians – and that these similarities, as well the fact that the proceedings were initiated to coincide with the latest presidential and parliamentary elections, add weight to the complainant's allegations;
7. *Expresses the wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit Niger, in order to carry out additional checks, and talk directly with all actors involved, in particular with those in the judiciary and the executive, and to encourage the parties to re-establish political dialogue and find a satisfactory solution to this case; *hopes* to receive a positive reply from the National Assembly in this regard, and assistance from the Assembly to enable the mission to proceed smoothly;
8. *Recalls* the Committee's previous conclusions, according to which Mr. Bakari's defence rights were not respected during the parliamentary procedure for lifting his immunity, as he was not given a preliminary hearing; *notes with interest* that the Rules of Procedure of the National Assembly have been amended to better regulate the lifting of parliamentary immunity by the Bureau when parliament is in recess; *requests* the Speaker of the National Assembly to provide a copy of the amended provisions;
9. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be able to provide relevant information; *also requests* him to take all necessary steps to organize a mission to Niger by the Committee on the Human Rights of Parliamentarians;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)*



Senator Leila De Lima is escorted by police officers following her arrest at the Senate in Manila on 24 February, 2017 © Ted Aljibe/AFP

## PHL08 - Leila de Lima

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression

### A. Summary of the case

Ms. Leila de Lima served as Chairperson of the Commission on Human Rights of the Philippines from May 2008 to June 2010. In that capacity she led a series of investigations into alleged extrajudicial killings linked to the Davao Death Squad (DDS) in Davao City, where Mr. Duterte had long held the post of mayor, and concluded that Mr. Duterte, now President of the Philippines, was behind the DDS.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign for a seat in the Senate in the elections of May 2016, in which she was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she initiated an inquiry into the extrajudicial killings of thousands of alleged drug users and drug dealers alleged to have taken place since President Duterte took office in June 2016. Since the start of her term as Senator, she has been subject to widespread intimidation and denigration, including by President Duterte directly.

Senator de Lima was arrested and detained on 24 February 2017 on the basis of accusations that she had received drug money to finance her senatorial campaign. The charges, in three different cases, were brought in the wake of an inquiry by the House of Representatives into drug trading in New

### Case PHL08

**Philippines:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

**Complainant(s):** Section I.1(d) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** September 2016

**Recent IPU decision:** [October 2017](#)

**IPU Mission:** [May 2017](#)

**Recent Committee hearing:** Hearing with the Philippines delegation to the 136<sup>th</sup> IPU Assembly (April 2017)

#### Recent follow-up:

- Communication from the authorities: Letter from the President of the Senate (January 2017)
- Communication from the complainant: March 2018
- Communication from the IPU: Letter addressed to the President of the Senate (February 2018)
- Communication from the IPU to the complainant: March 2018 ■

Bilibid Prison and into Senator de Lima's responsibility in that regard when she was Secretary of Justice. The House inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings.

Senator de Lima has still not been arraigned in any of the three cases, which have now been lodged with Branch 205 of the Regional Trial Court (RTC) in Muntinlupa City. A petition to the Supreme Court to reconsider its earlier decision accepting the legality of Senator de Lima's arrest is still pending.

Although Senator de Lima remains very politically active during her detention, and receives newspapers, journals and books, she has no access to Internet, computers, TV or radio, nor to an air-conditioning unit, despite a doctor's order. Senator de Lima has written a letter to the chief of the Philippine National Police in this regard.

Requests from her defence counsel to the courts that she be granted "legislative furlough" - or temporary release in order to attend to her legislative duties - have remained unanswered. Senators in the minority in the Senate have to date filed three resolutions urging that she be allowed occasional furlough.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Is deeply concerned* that Senator de Lima remains in pre-trial detention, more than one year after her arrest;
2. *Reiterates its call* upon the relevant authorities to release Senator de Lima immediately and to abandon the legal proceedings against her, unless serious evidence is rapidly forthcoming; *reaffirms* in this regard that the IPU Committee mission report clearly shows that the steps taken against Senator de Lima were in response to her vocal opposition to President Duterte's war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings, and that there is no serious evidence to justify the criminal cases against her;
3. *Decides* to send an observer to monitor and report on respect for fair trial standards in the cases before Branch 205 of the Regional Trial Court (RTC) in Muntinlupa City;
4. *Trusts* that the Supreme Court will give full consideration to the arguments presented by Senator de Lima and her lawyers in her motion for reconsideration of the legality of her arrest; *wishes* to be kept informed in this regard;
5. *Remains shocked* at the public campaign of vilification by the highest state authorities against Senator de Lima, which portrays her as an "immoral woman" and as guilty, even though a trial has yet to commence; *regrets* that the Supreme Court has yet to rule on this matter, thereby missing an important opportunity to condemn and end the public degrading treatment to which she has been subjected as a woman parliamentarian; *calls* on the Supreme Court to rule on this matter as quickly as possible;
6. *Considers* that the Senate has a special responsibility to help ensure that its colleagues participate in its deliberations and to speak out when they face reprisals for their work; *regrets* therefore that the Senate has not been able to take a firm stance in favour of Senator de Lima's direct participation in the Senate's most important work; *sincerely hopes* that the Senate, under the leadership of its President, will finally be able to act in solidarity with its colleague;
7. *Urges*, in the event that Senator de Lima is not immediately released, the Supreme Court to grant her occasional "legislative furlough"; *also urges* that the relevant authorities will swiftly grant her access to Internet, TV and radio, since this would greatly facilitate her parliamentary work; *trusts* that the authorities will also provide her with an air-conditioning unit, as ordered by her doctor; *wishes* to be kept informed in this regard;

8. *Considers* that the matters at issue in this case warrant an urgent follow-up visit by the Committee on the Human Rights of Parliamentarians; *requests* the Secretary General to seek the parliamentary authorities' support for this visit to take place as soon as possible;
9. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Turkey

*Decision adopted by consensus by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)<sup>5</sup>*



Demonstrators hold pictures of Figen Yüksekdağ during the trial in front of the court in Ankara on 13 April, 2017 © Adem Altan/AFP

- |                                      |                                  |
|--------------------------------------|----------------------------------|
| TUR69 - Gülser Yıldırım (Ms.)        | TUR99 - Altan Tan                |
| TUR70 - Selma Irmak (Ms.)            | TUR100 - Ayhan Bilgen            |
| TUR71 - Faysal Sariyildiz            | TUR101 - Behçet Yıldırım         |
| TUR72 - İbrahim Ayhan                | TUR102 - Berdan Öztürk           |
| TUR73 - Kemal Aktas                  | TUR103 - Dengir Mir Mehmet Fırat |
| TUR75 - Bedia Özgökçe Ertan (Ms.)    | TUR104 - Erdal Ataş              |
| TUR76 - Besime Konca (Ms.)           | TUR105 - Erol Dora               |
| TUR77 - Burcu Çelik Özkan (Ms.)      | TUR106 - Ertuğrul Kürkcü         |
| TUR78 - Çağlar Demirel (Ms.)         | TUR107 - Ferhat Encü             |
| TUR79 - Dilek Öcalan (Ms.)           | TUR108 - Hişyar Özsoy            |
| TUR80 - DILAN Dirayet Taşdemir (Ms.) | TUR109 - İdris Baluken           |
| TUR81 - Feleknas Uca (Ms.)           | TUR110 - İmam Taşçier            |
| TUR82 - Figen Yüksekdağ (Ms.)        | TUR111 - Kadri Yıldırım          |
| TUR83 - Filiz Kerestecioğlu (Ms.)    | TUR112 - Lezgin Botan            |
| TUR84 - Hüda Kaya (Ms.)              | TUR113 - Mehmet Ali Aslan        |
| TUR85 - Leyla Birlik (Ms.)           | TUR114 - Mehmet Emin Adıyaman    |
| TUR86 - Leyla Zana (Ms.)             | TUR115 - Nadir Yıldırım          |
| TUR87 - Meral Daniş Betaş (Ms.)      | TUR116 - Nihat Akdoğan           |
| TUR88 - Mizgin Irgat (Ms.)           | TUR117 - Nimetullah Erdoğan      |
| TUR89 - Nursel Aydoğan (Ms.)         | TUR118 - Osman Baydemir          |
| TUR90 - Pervin Buldan (Ms.)          | TUR119 - Selahattin Demirtaş     |
| TUR91 - Saadet Becerikli (Ms.)       | TUR120 - Sirri Süreyya Önder     |
| TUR92 - Sibel Yiğitalp (Ms.)         | TUR121 - Ziya Pir                |
| TUR93 - Tuğba Hezer Öztürk (Ms.)     | TUR122 - Mithat Sancar           |
| TUR94 - Abdullah Zeydan              | TUR123 - Mahmut Toğrul           |
| TUR95 - Adem Geveri                  | TUR124 - Aycan Irmez (Ms.)       |
| TUR96 - Ahmet Yıldırım               | TUR125 - Ayşe Acar Başaran (Ms.) |

<sup>5</sup> The delegation of Turkey expressed its reservations regarding the decision.

TUR97 - Ali Atalan  
TUR98 - Alican Önlü

TUR126 - Garo Paylan

### Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ Revocation of the parliamentary mandate
- ✓ Lack of due process in the proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Arbitrary arrest and detention<sup>6</sup>
- ✓ Ill-treatment<sup>7</sup>

#### A. Summary of the case

Over 600 criminal and terrorism charges have been brought against the members of parliament of the People's Democratic Party (HDP) since 15 December 2015, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. Hundreds of trial proceedings are ongoing against the HDP parliamentarians throughout Turkey. Some of the parliamentarians also continue to face older charges in relation to the KCK first-instance trial that has been ongoing for seven years, while others face more recent charges. In these other cases, their parliamentary immunity has allegedly not been lifted.

According to the complainant, most HDP members of parliament have been repeatedly arrested and forcefully brought to court for questioning since November 2016. Some of them have been placed in pre-trial detention, while most were granted release by the trial courts pending completion of the criminal proceedings. The complainant affirmed that at least 14 HDP parliamentarians, eight of whom were women, have received prison sentences of one year or more. A number of acquittals have also been handed down.

The complainant further stated that the parliament has ended the parliamentary mandate of nine of its members (including five women parliamentarians): three for their prolonged absence from parliament and six following final convictions (apparently partially related to older charges not covered by the blanket amnesty law and for which parliamentary immunity was therefore not lifted, according to the complainant). Two of the parliamentarians, Mr. Sariyildiz and Ms. Hezer Öztürk, may also be deprived of their citizenship. According to the complainant, one member of parliament – Ms. Figen Yüksekdağ, HDP Co-Chair – was further deprived of her HDP membership and executive position and banned from exercising any political activities, pursuant to a final court conviction.

Ms. Yüksekdağ remains subject to other criminal proceedings: an IPU trial observer was mandated to attend the hearings in her case on 18 September and 6 December 2017 (as well as the hearing of 7 December 2017 in the case of Mr. Demirtaş). The trial observer was denied access to the courtrooms during her December mission but regained access “as a member of the public”, rather than as an observer, at the 20 February 2018 hearing in Ms. Yüksekdağ's case. The judges indicated that the observer would be granted accreditation for future hearings in the case.

#### Case TUR-Coll.1

**Turkey:** Parliament affiliated to the IPU

**Victims:** 57 individuals (47 current and 10 former parliamentarians, all members of the HDP opposition party (34 men and 23 women)

**Complainant(s):** Section I.1(c) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** June 2016

**Recent IPU decision:** [October 2017](#)

**IPU Mission:** [February 2014](#)

**Recent Committee hearings:** Hearings held with the Turkish delegation and the complainants at the 138<sup>th</sup> IPU Assembly (Geneva, March 2018)

#### Recent follow-up:

- Communication from the authorities: Letters from the President of the Turkish IPU Group (January 2018)
- Communication from the complainant: March 2018
- Communication from the IPU: Letter to the President of the Turkish IPU Group (March 2018)
- Communication from the IPU to the complainant: March 2018 ■

<sup>1</sup> Concerns only the members of parliament placed in detention.

<sup>2</sup> Concerns three male members of parliament (Mr. Adiyaman - TUR114; Mr. Behçet Yıldırım - TUR101; Mr. Mahmut Togrul – TUR123) and three women members of parliament (Ms. Feleknaş Uca - TUR81, Ms. Besime Konca – TUR76 and Ms. Sibel Yigitalp – TUR92).

Nine members of parliament continue to be held in detention. They are no longer in solitary confinement but are still held in remote high-security prisons under restrictive conditions applicable to terrorism suspects (video surveillance, seizure of books and letters, restricted visits, etc.), which according to the complainant prevent them from exercising their parliamentary mandate.

The other members of parliament are free but have had their freedom of movement restricted; many have been placed under judicial control and are banned from travelling abroad. Four have also sought refuge abroad. This, together with the multitude of ongoing trials against them throughout Turkey, has restricted their ability to exercise their parliamentary mandate. A few HDP members of parliament, after expressing their opinion in the parliamentary debate, have also been subjected to physical attacks, including inside parliament, and to disciplinary sanctions.

The complainant alleges that, through the ongoing proceedings, the ruling party intends to exclude the Kurds, and other marginalized peoples represented by HDP, from the Parliament of Turkey. According to the complainant, the charges against the HDP members of parliament are groundless and violate their rights to freedom of expression, assembly and association. The complainant claims that the evidence adduced to support the charges against the members of parliament relates to public statements, rallies and other peaceful political activities carried out in furtherance of their parliamentary duties and their political party programme. Such activities include mediating between the PKK and the Turkish Government as part of the peace process between 2013 and 2015, advocating publicly in favour of political autonomy, and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Turkey and at the border with Syria (including denouncing the crimes committed by the Turkish security forces in that context). The complainant alleges that such statements, rallies and activities did not constitute any offence, and that they fall under the clear scope and protection of the fundamental rights of members of parliament. The complainant also alleges that proper standards of due process are being disregarded. The complainant does not believe that the judicial process is being administered in a fair, independent and impartial manner. The complainant has submitted extensive and detailed information in support of its claims, including excerpts of indictments and court decisions and the exact words of the incriminating speeches made by the parliamentarians that are being used as evidence of terrorism activities. Concerns also exist in relation to restrictive conditions of detention and to the denial of prison visits to foreign observers. Many of these claims are the subject of a petition to the European Court of Human Rights, which is pending. The IPU has made a submission to the Court as a third party intervener.

The Turkish authorities deny all these allegations. They have invoked the independence of the judiciary, the need to respond to security/terrorism threats and existing legislation, including decrees adopted under the state of emergency, to justify the legality of the measures taken. Some detailed information on the charges and ongoing prosecutions was provided by the authorities, but it is purely legal and does not provide any information on the facts and evidence underlying the charges despite repeated requests to that end. The Turkish authorities have rejected in two instances the Committee's request to conduct a fact-finding mission to Turkey on the grounds that it "could negatively affect the judicial process" and was not considered "appropriate".

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Turkish IPU Group and the complainant for the information provided and for meeting with the Committee on the Human Rights of Parliamentarians to discuss the cases and concerns at hand;
2. *Remains deeply concerned* at the allegations of widespread and systematic violations of the rights of HDP parliamentarians, which reportedly obstruct their ability to undertake their parliamentary duties and to represent their constituencies in an effective and unhindered manner, given that over 600 criminal and terrorism charges have been brought against them since December 2015, and that nine parliamentarians continue to be held in detention, at least 14 have received prison sentences and nine have been stripped of their parliamentary mandate in recent months;

3. *Welcomes* the invitation extended to the Committee by the Turkish delegation to the 138<sup>th</sup> IPU Assembly to visit Turkey to meet with the parliamentary and executive authorities; *trusts* that written confirmation of the approval of the mission will be forthcoming at the earliest convenience;
4. *Expresses the hope* that the fact-finding mission will facilitate progress in the case and enable the Committee to collect first-hand information about the serious allegations raised by the complainant and make an in-depth and objective assessment of the prior concerns expressed in the case;
5. *Is also pleased* that the Turkish authorities granted access for the IPU trial observer to the last hearing in the case of Ms. Yüksekdağ; *decides* to renew the mandate of the IPU trial observer for future hearings, including the next hearing scheduled on 17 May 2018; *expresses the hope* that the observer will be duly granted access to all future hearings as decided by the judges; *looks forward* to receiving a full report on the hearings upon the completion of the observer's mandate;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information and to proceed with all necessary arrangements to organize the requested mission by a Committee delegation and future trial observation missions;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)*



Maria G. Hernández, Nora Bracho, Stalin González and Delsa Solórzano at the National Assembly, March 2018 © D. Solórzano

- |                                  |                                  |
|----------------------------------|----------------------------------|
| VEN13 - Richard Blanco           | VEN48 - Yanet Fermin (Ms.)       |
| VEN16 - Julio Borges             | VEN49 - Dinorah Figuera (Ms.)    |
| VEN19 - Nora Bracho (Ms.)        | VEN50 - Winston Flores           |
| VEN20 - Ismael Garcia            | VEN51 - Omar González            |
| VEN22 - William Dávila           | VEN52 - Stalin González          |
| VEN24 - Nirma Guarulla (Ms.)     | VEN53 - Juan Guaidó              |
| VEN25 - Julio Ygarza             | VEN54 - Tomás Guanipa            |
| VEN26 - Romel Guzamana           | VEN55 - José Guerra              |
| VEN27 - Rosmit Mantilla          | VEN56 - Freddy Guevara           |
| VEN28 - Enzo Prieto              | VEN57 - Rafael Guzmán            |
| VEN29 - Gilberto Sojo            | VEN58 - María G. Hernández (Ms.) |
| VEN30 - Gilber Caro              | VEN59 - Piero Maroun             |
| VEN31 - Luis Florido             | VEN60 - Juan A. Mejía            |
| VEN32 - Eudoro González          | VEN61 - Julio Montoya            |
| VEN33 - Jorge Millán             | VEN62 - José M. Olivares         |
| VEN34 - Armando Armas            | VEN63 - Carlos Paparoni          |
| VEN35 - Américo De Grazia        | VEN64 - Miguel Pizarro           |
| VEN36 - Luis Padilla             | VEN65 - Henry Ramos Allup        |
| VEN37 - José Regnault            | VEN66 - Juan Requesens           |
| VEN38 - Dennis Fernández (Ms.)   | VEN67 - Luis E. Rondón           |
| VEN39 - Olivia Lozano (Ms.)      | VEN68 - Bolivia Suárez (Ms.)     |
| VEN40 - Delsa Solórzano (Ms.)    | VEN69 - Carlos Valero            |
| VEN41 - Robert Alcalá            | VEN70 - Milagro Valero (Ms.)     |
| VEN42 - Gaby Arellano (Ms.)      | VEN71 - German Ferrer            |
| VEN43 - Carlos Bastardo          | VEN72 - Adriana d'Elia (Ms.)     |
| VEN44 - Marialbert Barrios (Ms.) | VEN73 - Luis Lippa               |
| VEN45 - Amelia Belisario (Ms.)   | VEN74 - Carlos Berrizbeitia      |
| VEN46 - Marco Bozo               | VEN75 - Manuela Bolivar (Ms.)    |
| VEN47 - José Brito               |                                  |

## Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of the right to freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

### A Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 57 parliamentarians from the coalition of the Democratic Unity Roundtable (MUD) against the backdrop of continuous efforts by Venezuela's executive and judicial authorities to undermine the functioning of the National Assembly and to usurp its powers. The MUD opposes President Maduro's Government and obtained a majority of seats in the National Assembly following the parliamentary elections of 6 December 2015.

Soon after the elections, on 30 December 2015, the Electoral Chamber of the Supreme Court ordered the suspension of four members of parliament, three of them from the MUD, following allegations of fraud. The National Assembly first

decided to disregard the ruling, considering the allegations to be baseless, which led the Supreme Court to declare all the Assembly's decisions null and void. No effort appears to have been made to examine the alleged fraud and the members of parliament remain suspended.

Since March 2017, close to 40 parliamentarians have been attacked with impunity by law enforcement officers and pro-government supporters during demonstrations. These protests intensified after President Maduro announced the convening of a Constituent Assembly, which was subsequently elected on 30 July 2017, to rewrite the Constitution.

Mr. Gilber Caro was arrested and detained on 11 January 2017. There are serious concerns about his conditions of detention and the legal proceedings brought against him. On 18 August 2017, shortly after he started accusing the Government, the Constituent Assembly lifted the parliamentary immunity of Mr. German Ferrer, even though he is not a member of the Constituent Assembly, accusing him of involvement in a widespread extortion ring. Mr. Ferrer and his wife fled to Colombia the same day. Mr. Rosmit Mantilla, Mr. Enzo Prieto and Mr. Gilberto Sojo, alternate members of parliament, were deprived of their liberty in 2014 in connection with ongoing legal proceedings, for political reasons according to the complainant. Mr. Mantilla and Mr. Sojo were released at the end of 2016. The legal case against them continues. However, Mr. Prieto remains in detention,

In 2017, at least eight members of parliament had their passports confiscated or were subjected to other acts of intimidation at Caracas airport in connection with their international parliamentary work. Two other parliamentarians were disbarred from holding public office, allegedly in the absence of a legal basis.

The Government has not provided any funding to the National Assembly since August 2016. In its decision of 18 August 2017, the Constituent Assembly invested itself with legislative powers. The Constituent Assembly has taken over many of the premises of the National Assembly. Even the limited space used by the National Assembly has been invaded and occupied, with several members

### Case VEN-Coll.3

**Venezuela:** Parliament affiliated to the IPU

**Victims:** 57 opposition members of parliament (42 men and 15 women)

**Complainant(s):** Section I.1(c) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** March 2017

**Recent IPU decision:** [February 2018](#)

**IPU Mission:** - - -

**Recent Committee hearings:** - -

#### Recent follow-up:

- Communication from the authorities: Meeting between the IPU Secretary General and the Permanent Representative of Venezuela to the United Nations and other International Organizations in Geneva (June 2017)
- Communication from the complainant: March 2018
- Communication from the IPU: Letter to the Speaker of the National Assembly (February 2018)
- Communication from the IPU to the complainant: March 2018 ■

of parliament being taken hostage and beaten up by government supporters, with impunity, most notably on 5 July and 27 June 2017.

Long-standing efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians to Venezuela have failed in the absence of clear authorization from the Government to welcome and work with the delegation.

Since January 2018, there have been widespread demonstrations across Venezuela to protest against the dire economic situation and the decision to hold snap presidential elections on 20 May 2018. In early 2018 the National Electoral Council (CNE) decided that the Democratic Unity Roundtable coalition (MUD) would not be allowed to present a joint candidate, and then later, that none of the individual parties belonging to the MUD could participate either. Most of the MUD's leaders and other members of the opposition are either in prison, disqualified from standing in the elections or in exile. Citing deficiencies in the electoral process the MUD has announced that it will boycott the elections. The UN High Commissioner for Human Rights, the European Union, the [Organization of American States](#), the "[Lima Group](#)" (comprising 15 countries of the Americas) and the [United States](#) of America have rejected the electoral process. Recent proposals by President Maduro and the President of the Constituent Assembly to bring the legislative elections forward, to coincide with the presidential elections even though the National Assembly's term is due to expire in January 2021, are not being implemented, although early legislative elections are still anticipated. The opposition considers that such an effort is illegitimate and would also completely exclude the MUD and its member parties, even should they choose to participate, as the authorities have taken away their legal status for not having participated in the most recent elections.

Since May 2016, mediation efforts, primarily by stakeholders in the region, have sought to bring the Government and the opposition together. These efforts have not produced any concrete results and broke down in early February 2018,

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Remains deeply concerned* about the scale of ongoing efforts, with apparent impunity, to repress opposition members and undermine the integrity and autonomy of the National Assembly of Venezuela, which now include possible plans to curtail its term; *fears* that this repression is bound to increase against the backdrop of the fast-approaching presidential election and existing concerns about a free and fair voting process in that election;
2. *Urges* the authorities to put an immediate stop to the harassment of and attacks against opposition parliamentarians, to take effective action to hold to account those responsible for past abuses and to ensure that law enforcement officers respect human rights at all times in the conduct of their work; *requests* the relevant authorities to provide concrete information on steps taken by them to shed light on and establish accountability for the past incidents and to prevent new abuses from occurring;
3. *Urges once more* the relevant authorities to ensure that the National Assembly and its members can fully carry out their work by respecting its powers and allocating the necessary funding for its proper functioning; *requests* the relevant authorities urgently to provide information on steps taken to this end;
4. *Remains deeply concerned* about Mr. Caro's situation more than one year after he was arrested, and about the alleged circumstances under which he was recently moved to another detention centre; *urges* the authorities to ensure that he receives adequate treatment in detention and to inform his lawyers and family members at all times of important changes to his situation; *requests* the relevant authorities to provide official information on these points and on the exact charges against him and the facts underpinning them; *also requests* these authorities to provide the full details of the legal grounds and facts that underpin the charges against Mr. Prieto;

5. *Deeply regrets* that the human rights mission to Venezuela has still not taken place; *remains* all the more convinced, given the ongoing deteriorating situation, that such a mission could help address the concerns at hand; *requests*, therefore, the Secretary General to work with the relevant authorities with a view to the mission taking place as soon as possible;
6. *Reaffirms* its stance that the issues in these cases are part of the larger political crisis in Venezuela, which can only be solved through political dialogue; *calls once again on* all sides to act in good faith and to commit fully to political dialogue with the assistance of external mediation; *reaffirms* IPU's readiness to assist with these efforts; and *requests* the relevant authorities to provide further official information on how this assistance can best be provided;
7. *Invites* the global parliamentary community to engage urgently, given the looming presidential election, in efforts to address the concerns raised in this decision and resolve the current crisis in a manner consistent with democratic and human rights values, including in particular joint efforts by IPU member parliaments and other relevant international, regional and domestic stakeholders to facilitate the resumption of political dialogue, adopt public statements and make representations to the Venezuelan authorities;
8. *Requests* the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Zambia

*Decision adopted unanimously by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)*



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ZMB02 - Jack Mwiimbu  
ZMB03 - Garry Nkombo  
ZMB04 - Request Muntanga  
ZMB06 - Moono Lubezhi (Ms.)  
ZMB10 - Lt. Gen. Ronnie Shikapwasha  
ZMB13 - Annie Munshya Chungu (Ms.)  
ZMB14 - Howard Kunda  
ZMB15 - Michael Katambo  
ZMB18 - Lucky Mulusa  
ZMB19 - Patrick Mucheleka  
ZMB20 - Eustacio Kazonga

## Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Abusive revocation or suspension of the parliamentary mandate

## A. Summary of the case

According to the complainant, the 11 current and former opposition parliamentarians have allegedly been the victims of a campaign of score settling, which started immediately after the legislative and presidential elections of September 2011, which were won by the Patriotic Front. This campaign has included abuse of provisions of the Public Order Act – some of which, according to the complainant, have long been ruled unconstitutional by the courts – and disruption of opposition activities in 2012 and 2013. The parliamentary authorities have forwarded their official views, which present a different version of the facts, while acknowledging challenges in the proper implementation of the Public Order Act, which was often perceived by the opposition purely to serve the interest of the Government.

## Case ZMB-Coll.1

**Zambia:** Parliament affiliated to the IPU

**Victims:** Opposition members of parliament (9 men and 2 women)

**Complainant:** Section I.1(a) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** March 2013

**Recent IPU decision:** [February 2017](#)

**IPU Mission:** [September 2014](#)

### Recent Committee hearing:

Hearing with the Speaker of the National Assembly during the 138<sup>th</sup> IPU Assembly (March 2018)

### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (December 2016)
- Communication from the complainant: November 2016
- Communication from the IPU: Letter to the Speaker of the National Assembly (February 2018)
- Communication from the IPU to the complainant: December 2017 ■

The Zambian Government is currently analysing submissions received from various stakeholders for the review of the Public Order Act so as to make it more appropriate and responsive to new trends in an open and democratic society. Moreover, the Ministry responsible for internal security has embarked on an in-house training programme for police officers on respect for human rights in the application of the Public Order Act.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of the National Assembly of Zambia for the information shared in the hearing with the Committee on the Human Rights of Parliamentarians held during the 138<sup>th</sup> IPU Assembly;
2. *Reiterates* its conclusions that on several occasions in 2012 and 2013 the police overstepped their authority when they harassed opposition parliamentarians who were holding meetings, including by arresting them arbitrarily;
3. *Reaffirms its view* that a full review of the Public Order Act is essential to ensure that there is no repeat of these incidents, including by giving due consideration to the recommendations made to this end in the report of the Committee delegation that visited Zambia in 2014;
4. *Is confident* that the current review of the Public Order Act will effectively bring about the necessary changes to the Act to bring it fully into line with international and national human rights standards and ensure its fair and impartial application; *reaffirms* that the IPU stands ready to assist in those efforts, including by sharing relevant experience from other countries; *requests* the Secretary General to write to the Minister of Justice to make a specific offer for assistance and seek the Speaker's intervention to obtain a favourable response;
5. *Decides* to close the cases at hand in accordance with article 25 (b) of Annex I of its Procedure for the examination and treatment of complaints, given that, despite repeated requests, the complainant has provided no updated information over a prolonged period of time with regard to the aforesaid incidents, thus making it impossible for the Committee on the Human Rights of Parliamentarians to effectively continue its examination of the case;
6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

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