



Inter-Parliamentary Union
For democracy. For everyone.

140th IPU Assembly

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Governing Council
Item 9(b)

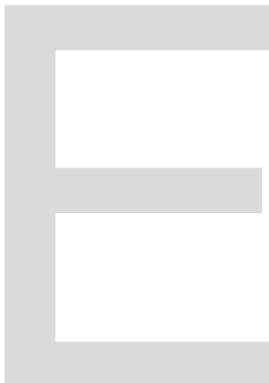
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10 April 2019

Committee on the Human Rights of Parliamentarians

*Decisions adopted by the IPU Governing Council at its
204th session (Doha, 10 April 2019)*

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#IPU140

Côte d'Ivoire

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



After winning municipal elections, PDCI candidate Jacques Ehouo arrives at the party headquarters in Abidjan to celebrate his victory. 15 October 2018. SIA KAMBOU/AFP

CIV-07 - Alain Lobognon

CIV-08 - Jacques Ehouo

Alleged human rights violations:

- ✓ Arbitrary arrest and detention¹
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

On 15 October 2018, Mr. Jacques Ehouo, a member of parliament from the Democratic Party of Côte d'Ivoire (PDCI), was elected mayor of the district of Plateau in the municipal and regional elections. However, Mr. Ehouo's investiture as mayor did not take place immediately following his election because of allegations of corruption and misappropriation of funds that surfaced shortly after his victory.

When summoned to attend a hearing by the Economic Police on 3 January 2019, Mr. Ehouo at first refused to appear, invoking his status as a member of parliament. The Prosecutor reportedly then wrote to the National Assembly on 4 January 2019 stating that it was only Mr. Ehouo's arrest that was unauthorized when parliament was not in session and that he therefore had to attend the hearing. In a letter dated 7 January 2019, the parliamentary authorities made clear to the Prosecutor that, as Mr. Ehouo was a member of parliament, he could not be prosecuted without the authorization of the Bureau of the National Assembly,

¹ This violation concerns only Mr. Alain Lobognon.

Case CIV-COLL-01

Côte d'Ivoire: Parliament affiliated to the IPU

Victim(s): Two male opposition members of parliament

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

Submission of complaint: January 2019

Recent IPU decision: - - -

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of Côte d'Ivoire to the 140th Assembly (Doha, April 2019)

Recent follow-up:

- Communication from to the authorities: - - -
- Communication from the complainant: January 2019
- Communications addressed to the authorities: Letters addressed to the Secretary General of the National Assembly, the Minister of Justice and the Speaker of the National Assembly (February 2019)
- Communication addressed to the complainant: February 2019

especially given that the latter had been in session at the time the Prosecutor had summoned the member of parliament. Mr. Ehouo eventually attended the hearing on 10 January 2019, following which he was charged by the Prosecutor with misappropriation of public funds, forgery and the use of counterfeit documents, and money laundering.

Mr. Alain Lobognon was worried about Mr. Ehouo's situation and on 8 January 2019 he expressed his concern on social media about Mr. Ehouo's arrest, even though the National Assembly had decided to request that proceedings be suspended against him. As a result, Mr. Lobognon was accused by the Prosecutor of posting material on Twitter that amounted to spreading fake news and causing public disorder. The Prosecutor consequently ordered his arrest for a *flagrante delicto* offence. On 15 January 2019, Mr. Lobognon was taken into custody.

The Bureau of the National Assembly met on 16 January 2019 and decided to demand that Mr. Lobognon's custody and the proceedings against both members of parliament be suspended. The Prosecutor is understood to have disregarded this decision as Mr. Lobognon was sentenced on 29 January 2019 in the court of first instance to a one-year prison term in a trial that his lawyers said lacked fair trial proceedings and was biased. When his case was considered by the court of appeal on 13 February, Mr. Lobognon received a six-month suspended prison sentence. Mr. Lobognon was released and lodged an appeal at the court of cassation. As for Mr. Ehouo, he finally took office as mayor following his investiture on 23 March 2019 following a four-month deadlock.

On 13 October 2018, Côte d'Ivoire had held municipal and regional elections in a politically tense atmosphere, particularly due to the break-up of the coalition between the PDCI and the Rally of Republicans (RDR).

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Considers* that the complaint concerning the situations of Mr. Ehouo and Mr. Lobognon is admissible pursuant to section 1(1)(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians) and *declares* itself competent to examine the case;
2. *Thanks* the delegation of Côte d'Ivoire for taking part in a hearing with the Committee and providing information on the two cases examined at the 140th IPU Assembly;
3. *Welcomes* the role played by the National Assembly of Côte d'Ivoire in handling the cases of Mr. Lobognon and Mr. Ehouo and the steps taken by its Bureau to uphold the rights of the two members of parliament in accordance with the Constitution of Côte d'Ivoire; *trusts* that the National Assembly will maintain its commitment with respect to these two cases once its Bureau is in place and will continue to keep the Committee informed on a timely basis;
4. *Is very concerned, however*, that the National Assembly's decision of 16 January 2019 to request that proceedings be suspended against Mr. Ehouo and that Mr. Lobognon's detention be ended was not taken into account by the Public Prosecutor; *wishes* to receive more information on the matter from the relevant authorities;
5. *Wishes* to obtain further information from the parliamentary authorities on the allegations of corruption to which Mr. Ehouo continues to be subject in order to understand the substance of these allegations;
6. *Notes* the conviction on appeal of Mr. Lobognon to a six-month suspended prison sentence and the appeal lodged by his lawyers with the court of cassation; *wishes* to receive a copy of the decisions adopted in the court of first instance and in appeal in order to understand the legal basis for his conviction, given that it appears difficult at first sight to consider his tweet to be a call for direct and immediate violence; *notes* that Mr. Lobognon has resumed his legislative functions after his release and is currently sitting in the National Assembly; *hopes* that his

conviction will not have a negative impact on his political and civil rights and will not hinder his right to stand for election in the future;

7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Justice and the complainant and to any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue its examination of the case and to report back to it in due course.

Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



© Photo courtesy of Mr. Chalupa's family.

COD-32 - Pierre Jacques Chalupa

Alleged human rights violations:

- ✓ Other violations (arbitrary stripping of nationality)

A. Summary of the case

Mr. Chalupa, a former opposition member of parliament who was arbitrarily disqualified in 2007 in a case that had come before the Governing Council at that time, was refused recognition of his Congolese nationality after being sentenced to three years' imprisonment on 23 January 2013 for forgery and use of falsified documents in connection with his acquisition of Congolese nationality. Following proceedings marred by flaws, a trial observer (July–August 2012), a Committee delegation on mission in Kinshasa (June 2013) and the Governing Council (October 2013) concluded that it could not be ruled out that the case was politically motivated and aimed at removing Mr. Chalupa from politics because he had joined the opposition in the November 2011 elections. Mr. Chalupa was subsequently granted a presidential pardon; he was released on 22 November 2013 after serving over half of his sentence.

The question of his nationality has never been resolved by the Congolese authorities. In late April 2016, the authorities had granted a passport to Mr. Chalupa to allow him to seek medical treatment abroad for purely humanitarian reasons. In August 2016, Mr. Chalupa had been informed that his application for naturalization had been rejected by a decree of the Council of Ministers dated 22 July 2016, on the principal grounds that "his behaviour and conduct are a sign of lack of respect for the institutions."

Case COD-32

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint(s): February 2012

Recent IPU decision: [October 2016](#)

IPU mission: [June 2013](#)

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session of the Committee (January 2017)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communications addressed to the authorities: Letters to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

Mr. Chalupa was suffering from cancer, which had developed during his detention. He was only able to receive medical treatment after his release. On 11 March 2019, Mr. Chalupa died as a result of this cancer at the Kinshasa Cinquanteenaire Hospital.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes with regret* the death of Mr. Chalupa;
2. *Deplores* the fact that the Congolese authorities failed to take any steps to recognize Mr. Chalupa's nationality in view of the provisions of the law on nationality and Mr. Chalupa's long-standing undeniable ties with the DRC;
3. *Concludes* that Mr. Chalupa was wrongfully deprived of his nationality and that such deprivation had been highly politically motivated, given that his nationality had never been contested by the Congolese authorities before he joined the opposition;
4. *Recalls* that Mr. Chalupa was deprived of his Congolese nationality following a political trial marred by serious flaws and that he was unable to receive adequate medical care during his detention; *concludes* therefore that the Congolese authorities were responsible for violating the fundamental rights of Mr. Chalupa; and *expresses the hope* that his family will receive compensation and any other form of reparation as appropriate;
5. *Decides* to close this case in accordance with section 25(a) of its Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians), since it is now impossible to reach a satisfactory solution in this case because of Mr. Chalupa's death;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the complainant.

Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



Frank Diongo visits Eugène Diomi Ndongala at Kinshasa Hospital, 20 March 2019 © Photo courtesy of Diomi Ndongala's family.

COD-71 - Eugène Diomi Ndongala

Alleged human rights violations:

- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Right of appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of movement

A. Summary of the case

Mr. Ndongala has been subjected to a campaign of political and legal harassment aimed at removing him from the political process since June 2012. In April 2013, he was arrested and on 26 March 2014 he was sentenced to 10 years' imprisonment for rape (for engaging in sexual relations with consenting children in return for payment) following a trial marred by serious flaws. The Committee concluded that the case was highly politically motivated and that Mr. Ndongala's fundamental rights had been violated. On 3 November 2016, the United Nations Human Rights Committee reached similar conclusions and called for his release.

Mr. Ndongala was excluded from the presidential pardon granted to political prisoners in March 2019 following the elections held in December 2018. The Minister of Justice granted him parole on 20 March 2019 on the grounds that he had served over a quarter of his sentence and that "that he had made amends during his incarceration". Mr. Ndongala was released. However, his parole may be revoked at any time if he breaches the restrictive conditions attached to it. These conditions prohibit him from making statements and engaging in political activities "of such a nature as to disrupt public order and the

Case COD-71

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint(s): July and December 2012

Recent IPU decision: [October 2018](#)

IPU mission: [June 2013](#)

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session of the Committee (January 2017)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communications addressed to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

smooth functioning of State institutions", from "causing scandal by his conduct", from travelling outside the country and from moving freely until April 2023. Mr. Ndongala is required to appear every Monday before the Prosecutor General at the Court of Cassation.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes with satisfaction* that Mr. Ndongala has finally been released;
2. *Deplores*, nonetheless, that he has not been accorded the presidential pardon granted to other political prisoners and that his release is conditional; *underlines* that most of the restrictive conditions attached to his release have nothing to do with the crime for which he was convicted; and *considers* that these conditions are part of the ongoing campaign of political and legal harassment to which he has been subjected since 2012; *recalls* that the Supreme Court's decision did not deprive Mr. Ndongala of his civil and political rights, that the United Nations Human Rights Committee condemned the DRC for violating its obligations under the International Covenant on Civil and Political Rights and called for Mr. Ndongala's immediate release and the annulment of his conviction;
3. *Considers* that the conditions attached to his release yet again undermine Mr. Ndongala's fundamental rights while again confirming the political nature of the case; *calls* therefore on the relevant Congolese authorities to end these conditions;
4. *Encourages* the new parliamentary authorities elected in the last legislative elections to promote the protection of the fundamental rights of all members of the National Assembly irrespective of their political will to ensure that similar violations do not occur again in the future; *also reiterates* its long-standing recommendation that a level of appeal be introduced in judicial proceedings for parliamentarians to guarantee a fair trial in accordance with the relevant international standards; and *calls again on* the Congolese authorities to revise the Constitution in this regard;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Justice, the complainants and to any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



Franck Diongo, President of the MLP, Congolese opposition party © AFP Photo/Papy Mulongo

COD86 – Franck Diongo

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Impunity
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings
- ✓ Right of appeal

A. Summary of the case

Mr. Diongo, an opposition member of parliament, was arrested together with several activists from his political party at his home on 19 December 2016 by presidential guard soldiers. He was tortured and then summarily tried under an accelerated procedure, despite a worrying medical condition resulting from ill-treatment in detention. On 28 December 2016, he was sentenced, in both the first and the last instance, to five years in prison for arbitrary arrest and illegal detention aggravated by torture. Moreover, the authorities have taken no action to punish any of the perpetrators of the acts of torture committed against the Mr. Diongo.

Mr. Diongo's arrest and conviction took place against a background of protests to postpone the elections in the DRC and against the extension of President Kabila's mandate (which should have ended on 19 December 2016) and the increased repression of the opposition and civil society. His arrest occurred amidst a wave of arrests and acts of violence on 19 and 20 December 2016 unleashed by the Congolese security forces to prevent any demonstrations by the opposition taking place. Mr. Diongo was the only politician who dared to continue calling on the people to protest on that symbolic date.

Case COD86

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint: December 2016

Recent IPU decision: [October 2018](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session of the Committee (January 2017)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communications addressed authorities: Letters to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

Following Mr. Felix Tshisekedi's victory in the December 2018 presidential elections, he granted presidential pardons to more than 700 political prisoners on 13 March and Mr. Diongo was released as a result.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes with satisfaction* that Mr. Diongo was one of the political prisoners granted a presidential pardon and that he has been released;
2. *Recalls* that Mr. Diongo had been arrested and sentenced to prevent him from continuing to express his opposition to the extension of the Head of State's mandate, and so as to put an end to the protests organized by the opposition, that his trial had been marred by serious flaws and that his fundamental rights to freedom of expression, peaceful assembly and a fair trial had neither been observed nor protected by the executive, judicial and legislative authorities of the DRC, and that Mr. Diongo had been prevented from taking part in the elections because of this politically motivated conviction, which was in violation of article 25 of the International Covenant on Civil and Political Rights;
3. *Wishes* to ensure, and to receive official confirmation from the relevant authorities, that Mr. Diongo's conviction cannot constitute grounds for preventing him from standing for election in the future; *requests therefore* the DRC authorities to confirm that, following the announcement of the presidential pardon decree, Mr. Diongo's conviction was annulled and deleted from his criminal record, and to provide it with a copy of the extract from the criminal record attesting to that fact;
4. *Deplores* the fact that no action has been taken by the Congolese authorities to independently and impartially investigate the torture inflicted on Mr. Diongo and other suspects arrested with him, or to punish the soldiers responsible for these acts, despite the complaint filed by Mr. Diongo with the military courts;
5. *Urges therefore* the Congolese authorities to take all necessary steps to ensure that the perpetrators of these acts are brought to justice without delay and relieved of their duties; *encourages* the Congolese authorities to implement a zero-tolerance policy on torture and ill-treatment in detention, in strict compliance with the recent decision to close illegal places of detention; *also calls on* the Congolese authorities to ensure that Mr. Diongo is compensated for the wrongdoings he suffered;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Justice, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

Ecuador

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



© José Cléver Jiménez Cabrera

ECU68 - José Cléver Jiménez Cabrera

Alleged human rights violations:

- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Lack of fair trial proceedings
- ✓ Threats, acts of intimidation

A. Summary of the case

In 2013, Mr. José Cléver Jiménez, then a member of the National Assembly, together with adviser and journalist Fernando Alcibiades Villavicencio and union leader Carlos Eduardo Figueroa, was sentenced at first and second instance for criminal judicial defamation against the then President Rafael Correa after accusing him of having ordered the armed raid of the police hospital in Quito during the revolt of police officers on 30 September 2010. The complainant considered their conviction violated their right to freedom of expression and Mr. Cléver Jiménez's parliamentary immunity. The sentence was not served, as Mr. Cléver Jiménez went into hiding.

After analysing all the information on file, on 24 March 2014 the Inter-American Commission on Human Rights (IACHR) adopted precautionary measures and requested the State of Ecuador to suspend implementation of the sentence, considering that Mr. Jiménez's rights to freedom of expression and judicial protection would be in a serious, urgent situation of irreparable harm if the sentence were to be executed. As the State refused to observe the request, Mr. Cléver Jiménez presented a legal action before the Constitutional Court for non-observance of the IACHR precautionary measures.

Case ECU68

Ecuador: Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

Qualified complainant(s): Section I (1)(a), (b) and (d) of the [Committee Procedure](#) (Annex I)

Submission of complaint(s): February and June 2014; September 2016

Recent IPU decision: [October 2016](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of Ecuador during the 138th IPU Assembly (March 2018)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the National Assembly (October 2018)
- Communication from the complainant: January 2018
- Communication addressed to the authorities: Letter addressed to the Secretariat of International Relations of the National Assembly (March 2019)
- Communication addressed to the complainant: March 2019

In March 2015, the Supreme Court of Justice ordered the police not to arrest Mr. Cléver Jiménez, as the statute of limitations for implementation of the sentence had run out. Nevertheless, former President Correa pursued the matter in court so as to obtain the financial compensation awarded to him by the court and the public apology that Mr. Cléver Jiménez and the two others were ordered to make. It appears that, in the end, Mr. Villavicencio was taken to court to pay, on behalf of the three convicted persons, the financial compensation awarded to former President Correa.

In mid-2013, Mr. Cléver Jiménez denounced the possible conflict of interest by the Government of Ecuador in the purchasing of legal services. According to the complainant, rather than investigating these denunciations, the Prosecutor's Office chose to initiate an investigation into Mr. Cléver Jiménez with regard to his revelations, first on accusations that he was guilty of hacking, accusations that were later dropped, and later that he had disclosed secret information. On 28 October 2016, the judge in this case ordered his pretrial detention, which was subsequently converted into house arrest. Mr. Cléver Jiménez was ordered to wear an electronic device around his ankle and to report every week to the President of the Provincial Court of Pichincha. On 12 April 2018, the National Court of Justice, following the Prosecutor Office's decision at the end of the trial not to ask for his conviction and punishment, dismissed the proceedings.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Reaffirms* that freedom of expression goes to the heart of democracy, is essential to members of parliament and includes not only speech, opinions and expressions that are favourably received or regarded as inoffensive, but also those that may offend, shock or disturb others;
2. *Concludes* that Mr. Cléver Jiménez was sentenced on account of having strongly criticized the then President of Ecuador, which is clearly protected speech under international law, and was subsequently subject to other criminal proceedings that also disregarded respect for his right to freedom of expression;
3. *Decides to close* the case pursuant to section 25(a) of its Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians), given that Mr. Jiménez is no longer subject to legal proceedings and that any further action in the case has become moot;
4. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 204th session
(Doha, 10 April 2019)*



Venezuela's Speaker of the National Assembly Juan Guaidó speaks before a crowd of opposition supporters during an open meeting in Caraballeda, Venezuela, on 13 January 2019 © Yuri CORTEZ/AFP

- VEN-10 - Biagio Pilieri
- VEN-11 - José Sánchez Montiel
- VEN-12 - Hernán Claret Alemán
- VEN-13 - Richard Blanco
- VEN-16 - Julio Borges
- VEN-19 - Nora Bracho (Ms.)
- VEN-20 - Ismael Garcia
- VEN-22 - William Dávila
- VEN-24 - Nirma Guarulla (Ms.)
- VEN-25 - Julio Ygarza
- VEN-26 - Romel Guzamana
- VEN-27 - Rosmit Mantilla
- VEN-28 - Enzo Prieto
- VEN-29 - Gilberto Sojo
- VEN-30 - Gilber Caro
- VEN-31 - Luis Florido
- VEN-32 - Eudoro González
- VEN-33 - Jorge Millán
- VEN-34 - Armando Armas
- VEN-35 - Américo De Grazia
- VEN-36 - Luis Padilla
- VEN-37 - José Regnault
- VEN-38 - Dennis Fernández (Ms.)
- VEN-39 - Olivia Lozano (Ms.)
- VEN-40 - Delsa Solórzano (Ms.)
- VEN-41 - Robert Alcalá
- VEN-42 - Gaby Arellano (Ms.)
- VEN-43 - Carlos Bastardo
- VEN-44 - Marialbert Barrios (Ms.)
- VEN-45 - Amelia Belisario (Ms.)
- VEN-46 - Marco Bozo
- VEN-47 - José Brito
- VEN-48 - Yanet Fermin (Ms.)
- VEN-49 - Dinorah Figuera (Ms.)
- VEN-50 - Winston Flores
- VEN-51 - Omar González
- VEN-52 - Stalin González
- VEN-53 - Juan Guaidó
- VEN-54 - Tomás Guanipa
- VEN-55 - José Guerra
- VEN-56 - Freddy Guevara
- VEN-57 - Rafael Guzmán
- VEN-58 - María G. Hernández (Ms.)
- VEN-59 - Piero Maroun
- VEN-60 - Juan A. Mejía
- VEN-61 - Julio Montoya
- VEN-62 - José M. Olivares
- VEN-63 - Carlos Paparoni
- VEN-64 - Miguel Pizarro
- VEN-65 - Henry Ramos Allup
- VEN-66 - Juan Requesens
- VEN-67 - Luis E. Rondón
- VEN-68 - Bolivia Suárez (Ms.)
- VEN-69 - Carlos Valero
- VEN-70 - Milagro Valero (Ms.)
- VEN-71 - German Ferrer
- VEN-72 - Adriana d'Elia (Ms.)
- VEN-73 - Luis Lippa
- VEN-74 - Carlos Berrizbeitia
- VEN-75 - Manuela Bolívar (Ms.)
- VEN-76 - Servio Vergara
- VEN-77 - Franklin Duarte
- VEN-78 - Oscar Ronderos
- VEN-79 - Mariela Magallanes (Ms.)

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Other violations (right to privacy)

A. Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 64 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.

Soon after the elections for the National Assembly, on 30 December 2015, 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 of the Assembly's decisions null and void. In the absence of any effort to examine the alleged fraud, the members of parliament were finally sworn in at the National Assembly on 16 July 2018.

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.

Invoking *flagrante delicto*, the authorities arrested and detained Mr. Juan Requesens on 7 August 2018, accusing him of involvement in the alleged assassination attempt on President Maduro three days earlier. There are serious concerns about his treatment in detention and respect for due process following the immediate lifting of his parliamentary immunity, not by the National Assembly but the Constituent Assembly. Nine other members of the National Assembly have spent up to four years in detention in recent years, with disregard for their parliamentary immunity, and continue to be subject to reportedly politically motivated legal proceedings.

In 2017, six members of parliament had their passports confiscated arbitrarily in connection with their international parliamentary work. Two other members of parliament were disbarred from holding public office, allegedly in the absence of any legal basis. Seven members of parliament left Venezuela and obtained asylum abroad in the face of continued harassment and intimidation, while the then Deputy Speaker, Mr. Freddy Guevara, sought protection at the Chilean Embassy in Caracas, where he has remained since November 2017. Today, many parliamentarians continue to face regular harassment, such as in the case of Mr. Tomás Guanipa, who has faced physical attacks, baseless accusations, a plan to have him assassinated and house searches. A June 2018 UN human rights report documented extensively the attacks against political opponents, social activists and human rights defenders.

Case VEN-COLL-06

Venezuela: Parliament affiliated to the IPU

Victim(s): 64 opposition members of parliament (48 men and 16 women)

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

Submission of complaint(s): March 2017

Recent IPU decision: [February 2019](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of Venezuela at the 140th IPU Assembly (April 2019)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (February 2019)
- Communication from the complainant: April 2019
- Communication addressed to the authorities: Letter to the Speaker of the National Assembly (February 2019) and letter to the Minister of Foreign Affairs (December 2018)
- Communication addressed to the complainant: March 2019

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

Long-standing efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians (CHRP) to Venezuela have failed in the absence of cooperation from the Government to welcome and work with the delegation. In October 2018, the IPU governing bodies decided that it would be a joint mission, comprising members of the IPU Executive Committee and the CHRP and focusing on both the larger political matters at stake in the Venezuelan crisis and the specific concerns expressed by the CHRP.

Presidential elections took place on 20 May 2018. The MUD boycotted the elections, considering the electoral system to be rigged in favour of President Maduro, who obtained the most votes in elections that were widely criticized for failing to be free and fair. President Maduro was sworn in on 10 January 2019 for a second term.

On 13 January 2019, Mr. Juan Guaidó, the new Speaker of the National Assembly, was briefly detained by members of the National Bolivarian Intelligence Service (SEBIN).

On 15 January 2019, the National Assembly invoked the country's Constitution to declare the illegitimacy of President Maduro, and declared the presidency to be vacant. On 21 January 2019, the Supreme Court declared the Bureau of the National Assembly to be illegitimate and reaffirmed its position that all decisions by the National Assembly were null and void. On 23 January 2019, Mr. Guaidó publicly stated that, in conformity with the Constitution, he was ready to assume the interim presidency of Venezuela until free and fair elections were held, which decision was immediately endorsed by the National Assembly. Many countries in the Americas and several members of the European Union have since recognized Mr. Guaidó as President of Venezuela, which recognition is strongly opposed by several other countries from and outside the region including China, Cuba, the Islamic Republic of Iran, the Russian Federation and Turkey.

On 23 January 2019, the Supreme Court requested the Public Prosecutor's Office to examine whether, in light of the National Assembly's actions, the conduct of members of the National Assembly amounted to criminal behaviour. On 29 January 2019, the Supreme Court launched an investigation into Mr. Guaidó, accusing him of being responsible for the commission of crimes against the constitutional order. The Supreme Court imposed several restrictions on him, including the prohibition to leave the country for the duration of the investigation.

On 21 March 2019, Mr. Marrero, who is Mr. Guaidó's Chief of Staff, was arrested after his house and that of his neighbour, member of the National Assembly Mr. Vergara, were allegedly raided and both men manhandled by the SEBIN. Mr. Marrero was subsequently taken into custody.

On 28 March 2019, the Comptroller General of Venezuela decided to disbar Mr. Guaidó from holding public office for a period of 15 years, reportedly on accusations of being unable to justify the funds used for his foreign travels. The Comptroller General reportedly requested the Prosecutor's Office to take the necessary action. In early April 2019, the Supreme Court asked the Constituent Assembly to lift Mr. Guaidó's parliamentary immunity, which it subsequently did, to permit legal action against him for having allegedly violated the travel restrictions imposed on him.

On 2 April 2019, as Mr. Ronderos and Ms. Magallanes were at the airport in Caracas to fly to Doha, they were told that their passports were being annulled and confiscated because they were in a bad state. Ms. Magallanes reportedly saw that the officials at the airport were using a list that showed that the other MUD members of the National Assembly passing through Caracas airport would also have their passports confiscated. In the following days, Mr. Ronderos and Ms. Magallanes were invited to report to the national migration authorities and, after public statements by the IPU and, with regard to Ms. Magallanes who is also an Italian national, the Italian authorities, the very same passports were

returned to them, without any indication, however, that they would now be deemed to be valid. By that time, it was too late for them to travel to Doha in time for the IPU Assembly.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that during the 140th IPU Assembly the Committee on the Human Rights of Parliamentarians met separately with members of the National Assembly belonging to the MUD and with members of the Bloque de la Patria parliamentary group;
2. *Condemns* the fact that two members of the National Assembly were prevented at Caracas airport from travelling to the IPU Assembly in Doha and that others would have likewise been prevented from doing so; *believes* that these actions are part of a wider and systematic pattern of harassment of opposition members aimed at stopping them from speaking abroad about the situation in Venezuela; *considers* that this situation, which flies in the face of their rights to freedom of expression and freedom of movement and the very ideal that the IPU embodies as a platform for parliamentary dialogue, is totally unacceptable; *strongly urges* the authorities to stop this intimidation forthwith;
3. *Is deeply concerned* that Mr. Guaidó has been disbarred from holding public office for a period of 15 years; *considers* that this decision is not only wholly disproportionate, but also appears to be arbitrary, since it was taken without him having been heard; *points out* also in this regard that the current Comptroller General, who is the former Deputy Speaker of the Constituent Assembly, was appointed in October 2018 by the Constituent Assembly, not the National Assembly as stipulated by the Venezuelan Constitution;
4. *Notes* that Mr. Guaidó is facing serious criminal accusations on account of having allegedly acted against the constitutional order in Venezuela; *is deeply concerned* that the criminal proceedings against Mr. Guaidó in relation to these accusations were initiated after the Constituent Assembly, not the National Assembly as stipulated by the Constitution, lifted his parliamentary immunity; *wishes* to receive precise information on the factual and legal basis for the accusations brought against him;
5. *Is deeply concerned* about the arbitrary raid on the residence of Mr. Vergara and the allegation that he was ill-treated during the operation; *wishes* to receive information on the legal justification for the raid and on steps taken to investigate the alleged ill-treatment;
6. *Urges once more* the authorities to stop immediately all forms of harassment of members of the National Assembly, to ensure that all relevant state authorities respect their human rights and parliamentary immunity and to fully investigate and establish accountability for previously reported violations of their rights; *urges likewise* the relevant authorities to ensure that the National Assembly can fully carry out its work by respecting the Assembly's powers and allocating the necessary funding for its proper functioning; *requests* the relevant authorities to provide information urgently on steps taken to this end;
7. *Remains deeply concerned* about the continued detention of Mr. Juan Requesens, who has apparently never been brought before a judge since his arrest, all the more so in light of the total disregard for his parliamentary immunity, the very serious indications that he may have been drugged to testify against himself, the fact that he is kept at the headquarters of the National Bolivarian Intelligence Service and the poor conditions in which he is allegedly being held, with very limited, if any, contact with his family; *urges once more* the authorities to address these matters without delay and to ensure that Mr. Requesens is kept in dignified conditions; *requests* the relevant authorities to provide official information on these points and on the facts underpinning the very serious charges brought against him;
8. *Deeply regrets* that the Government of Venezuela has still failed to offer any assurances in writing that the long-proposed IPU mission to Venezuela can finally take place; *remains convinced* that such a mission could help address the concerns at hand; *requests once again*,

therefore, the Secretary General to work with the parliamentary and executive authorities of Venezuela with a view to the mission taking place as soon as possible;

9. *Reaffirms* in this regard its view that the issues in the cases at hand are part of the larger political crisis in Venezuela, which can only be solved through political dialogue and by the Venezuelans themselves; *calls once again on* all sides to act in good faith and to commit fully to political dialogue, with the assistance of external mediation that is acceptable to all sides; *reaffirms* the IPU's readiness to assist in these efforts; and *requests* the relevant authorities to provide further official information on how this assistance can best be provided;
10. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
11. *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 204th session (Doha, 10 April 2019)



Former president of the Maldives, Mohamed Nasheed (centre), is embraced by Jumhoory Party leader, Qasim Ibrahim (left), as President-elect, Ibrahim Mohamed Solih (right), looks on after Nasheed returned from exile to the Maldives, in Male on 1 November 2018 © Ahmed SHURAU/AFP

MDV55 - Ahmed Mahloof
MDV60 - Abdulla Riyaz
MDV62 - Faris Maumoon
MDV63 - Ibrahim Didi
MDV64 - Qasim Ibrahim
MDV77 - Abdullah Sinan
MDV78 - Ilham Ahmed

Alleged human rights violations:

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

A. Summary of the case

Between February 2012, following the controversial resignation of the then President, Mohamed Nasheed (Maldivian Democratic Party – MDP), which he claimed was forced upon him, and September 2018, there were serious and credible reports and allegations of arbitrary arrest, ill-treatment, attacks and death threats against several opposition members of the People's Majlis, the majority of them belonging to the MDP. In more recent years, new concerns arose about the arbitrary revocation of the parliamentary mandates of, and unjustified charges against, several opposition members.

Case MDV-COLL-01

Maldives: Parliament affiliated to the IPU

Victim(s): Seven male opposition members of parliament

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

Submission of complaint(s): February 2012

Recent IPU decision: [February 2019](#)

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

Recent Committee hearing(s): Hearing with the Maldives delegation at the 140th IPU Assembly (April 2019)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the People's Majlis (April 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter addressed to the Speaker of the People's Majlis (March 2019)
- Communication addressed to the complainant: March 2019

These concerns were largely satisfactorily addressed in 2018, following the election of the joint candidate of four opposition parties, Mr. Ibrahim Solih, as President of the Maldives in September that year. As a result, the IPU Committee on the Human Rights of Parliamentarians decided in January/February 2019 to close the original case of 50 members of the Maldivian parliament that it had been examining, with the exception of the situation of seven members of parliament.

These seven members of parliament had been allegedly subjected to arbitrary arrest, detention and legal proceedings at a time when they and their parties were in strong opposition to the then President Yameen. Six of them were facing terrorism charges and originally the detention of five of them was ordered for the duration of their trials. They were all released after September 2018. The seventh member of parliament, Mr. Qasim Ibrahim, was sentenced in 2017, allegedly in the absence of a fair trial, and convicted of vote buying. Soon after his sentence was pronounced, he was allowed to leave the Maldives for medical treatment. After September 2018, Mr. Qasim Ibrahim was granted bail and, after returning to the Maldives, became the new Speaker. The High Court has since overturned his conviction and sentence.

According to the most recent information provided by the parliamentary authorities, the other six members of parliament, with the exception of Mr. Abdulla Riyaz, are also no longer subject to legal proceedings. Mr. Riyaz is subject to accusations of attempting to influence police officers and spreading false information. The parliamentary authorities have expressed the hope that the proceedings against him would also soon be dismissed.

Parliamentary elections took place in the Maldives on 6 April 2019. The MDP won a large majority of seats in parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Maldivian delegation to the 140th IPU Assembly for meeting with the Committee on the Human Rights of Parliamentarians and for the information provided;
2. *Is pleased* that six of the seven members of parliament are no longer subject to legal proceedings;
3. *Decides therefore* to close their case pursuant to section 25(a) of its Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians), while regretting that several of them have had to spend several months in detention, often in reportedly poor conditions, and without information being made available on the facts in support of the charges against them; *regrets also* in this regard that no official reply was ever forthcoming regarding the alleged violations of the right to a fair trial of Mr. Qasim Ibrahim, a situation which only reinforces these allegations;
4. *Sincerely hopes* that the legal proceedings against Mr. Abdulla Riyaz will soon be concluded and, if there is no evidence to support the accusations, discontinued; *wishes* to receive official information on the timeline for their completion and on the legal and factual basis of the accusations;
5. *Recalls* that the Committee on the Human Rights of Parliamentarians has undertaken several missions to the Maldives since 2012, which have identified a number of factors that have accompanied and enabled the violations of the human rights of members of parliament that arose in the original overall case, including a “winner-takes-all” political mentality, lack of a culture of political dialogue, reports of widespread corruption, systematic floor crossing in parliament, the focus on personality rather than programme-based political parties, lack of democratic oversight of the security sector and the absence of a fully independent judiciary and independent oversight institutions; *sincerely hopes* that the new parliament and the Government will use their powers to address these factors and hence reinforce the foundations of democracy in the Maldives; *reaffirms* that the IPU stands ready to lend its expertise to the Maldivian

authorities to facilitate constructive dialogue in parliament and between parliament and the other state branches, and to promote a better understanding of the protection of the rights of parliamentarians;

6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant;
7. *Requests* the Committee to continue its examination of the case of Mr. Abdulla Riyaz and to report back to it in due course.

Mongolia

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



© Zorig Foundation

MNG01 - Zorig Sanjasuuren

Alleged human rights violations

- ✓ Murder
- ✓ Impunity

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. Mr. Zorig was being considered as a candidate for the post of Prime Minister on the day he was killed. The killing 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, little progress has been reported. 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 pressurized and tortured in order to obtain confessions.

Between late 2015 and 2017, three suspects were identified, arrested, expeditiously tried and sentenced during trials closed to the public.

Following a mission to Mongolia in September 2017, the IPU Committee on the Human Rights of Parliamentarians concluded that justice had not been done and that serious violations of international fair trial standards had taken place. It called for an urgent public and fair retrial.

Case MNG01

Mongolia: Parliament affiliated to the IPU

Victim(s): Male parliamentarian of the majority

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

Submission of complaint(s): October 2000, March 2001, September 2015

Recent IPU decision: [March 2018](#)

IPU mission(s): August 2001, [September 2015](#), [September 2017](#)

Recent Committee hearing(s): Hearing with the delegation of Mongolia at the 140th IPU Assembly (April 2019)

Recent follow-up:

- Communications from the authorities: Letter of the Vice Chairman of the State Great Hural (April 2019); letter of the Minister of Justice received (February 2019); letter of the Prosecutor General (January 2019)
- Communications from the complainant: April 2019
- Communications addressed to the authorities: Letters addressed to the Minister of Justice, the Prosecutor General, the Deputy Speaker of the State Great Hural and the Permanent Representative in Geneva (March 2019)
- Communication addressed to the complainant: April 2019

In December 2017, the Mongolian Government ordered the declassification of most of the files relating to the Zorig case. However, the court verdicts and other important case materials have remained classified and inaccessible to the public and to lawyers representing Zorig.

In March 2018, the authorities stated that they would welcome another visit to Mongolia by a delegation of the Committee. It was not confirmed that the delegation would be granted permission to visit the convicted persons in prison.

Although a secret investigation is still officially open to identify the mastermind(s), no information is available on what it entails. In April 2018, Ms. Bulgan (Mr. Zorig's partner at the time of the assassination, and the only eye witness) was formally charged as a suspect (for the third time in 20 years) and put under an official travel ban.

In March 2019, the new Speaker of the State Great Hural and the Minister of Justice publicly acknowledged the deficiencies of the 2016 trials, including the use of torture to extort confessions. The Minister of Justice stated that the persons convicted were innocent and publicly apologized to their families. A special government session was held to discuss the Zorig case and a video showing two of the convicted persons being tortured. The persons convicted of the assassination of Mr. Zorig are still being held in detention but were transferred to the prison hospital. Fast-tracked amendments to laws governing judicial appointments were passed by parliament on 27 March, and the Chief Justice, as well as the Prosecutor General and his deputy, were dismissed on 28 March 2019.

In a letter dated 3 April 2019, the Deputy Speaker of the State Great Hural of Mongolia stated that a criminal case had been opened on 14 December 2018 and an investigation was ongoing into alleged illegal acts committed by officials against the three persons convicted. He also announced that the Speaker of the State Great Hural had established a new working group in an ordinance dated 3 April 2019. The working group is composed of members of parliament, relevant officials of the executive branch and law enforcement agencies, as well as the victim's lawyer. Its mandate is to review, examine and reach conclusions on the Zorig case on the basis of the concerns and recommendations made by the IPU Governing Council in the decision adopted during the 138th IPU Assembly (March 2018, Geneva).

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Mongolian authorities for their cooperation and for the information provided; *thanks* in particular the Deputy Speaker the State Great Hural and the Mongolian delegation to the 140th IPU Assembly for meeting with the Committee on the Human Rights of Parliamentarians;
2. *Takes note with interest* of the significant developments that have recently taken place in Mongolia in relation to the case since a video allegedly showing the convicted persons being tortured was disclosed by the Minister of Justice and Internal Affairs; *points out* that these developments confirm the findings of the 2017 IPU mission to Mongolia; and *reaffirms* the recommendations made in that respect in its previous decision;
3. *Expects* therefore that these developments will promptly bring about the release of the three persons convicted and their public retrial in the presence of domestic and international observers, including an IPU observer; *also hopes* that significant progress towards justice will be made promptly and that the real perpetrators, organizers and instigators of the assassination of Mr. Zorig will now be apprehended and tried without further delay pursuant to fair, impartial and transparent judicial proceedings conducted by independent courts; *recalls* that the case has long been used as a political bargaining chip by all political parties; and *expresses the hope* that at last justice will be done and seen to be done in the Zorig case;
4. *Expresses satisfaction* about the recent establishment by the Speaker of the State Great Hural of a new working group on the Zorig case; *wishes* to be kept informed on a regular basis of its work and of any new developments related to the case; also *urges* the working group to assist the Committee in obtaining a copy of the video of the torture and to urgently clarify the current

situation of Ms. Bulgan, as it understands that she is still charged as a suspect and prohibited from travelling abroad on these grounds;

5. *Is pleased* that the Mongolian authorities have reiterated their wish for the Committee to conduct a follow-up mission to Mongolia; *recalls* that the Committee is still waiting for a copy of the court verdicts and that this was a prior condition for the mission taking place in order to ensure its effectiveness; *also wishes* to receive written assurances that the delegation will be authorized to meet with the three persons convicted; *requests* the assistance of all relevant authorities, including parliament and the newly established working group, to obtain the required documents and permissions from all relevant authorities to that end; and *reaffirms its wish* for the Committee to conduct a mission to Mongolia once these conditions have been met;
6. *Remains deeply concerned* that the court decisions issued in the Zorig case remain confidential; *recalls* that fair trial guarantees under Mongolian and international law require court decisions to be made available to the public; *also points out with concern* that the declassified files remain largely inaccessible to date, including to the victims' lawyer; and *deplores* the continuing lack of transparency in that respect; *renews* its prior calls for full transparency in the case;
7. *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;
8. *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 204th session (Doha, 10 April 2019)



Saturnino Ocampo

PHI02 - Saturnino Ocampo
PHI04 - Teodoro Casiño
PHI05 - Liza Maza
PHI06 - Rafael Mariano

Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

The persons concerned were elected to the House of Representatives in May 2007 under the Philippine party-list system, which is designed to ensure the representation of underprivileged groups in parliament. In the May 2010 parliamentary elections, Mr. Ocampo and Ms. Maza stood for the Senate but were not re-elected, whereas Mr. Casiño and Mr. Mariano were elected. Since the 2013 elections, the persons concerned have no longer occupied parliamentary posts.

All four victims claim to have been subjected to continuous harassment since May 2007, due to their opposition to the policies of the President of the Philippines at the time, Ms. Gloria Macapagal Arroyo. The rebellion charges brought against them in February 2006 were dismissed with final effect by the Supreme Court on 2 July 2007, and the writ of amparo case against Mr. Ocampo was also dismissed in February 2014.

Case PHL-COLL-01

Philippines: Parliament affiliated to the IPU

Victim(s): Opposition members of parliament (three men and one woman)

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

Submission of complaint(s): March and April 2006

Recent IPU decision: [April 2015](#)

IPU mission: [April 2007](#)

Recent Committee hearings: - - -

Recent follow-up:

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: January 2019

In March 2008, multiple murder charges were filed against Mr. Ocampo (Leyte Murder Case). In February 2014, the Supreme Court dismissed Mr. Ocampo's petition to have the case rejected, ruled that the trial against him should proceed and granted him bail. A subsequent omnibus motion by Mr. Ocampo to quash more recent information brought forward by the prosecution was dismissed by the Regional Trial Court, the Court of Appeals and, finally in 2017, by the Supreme Court. Hearings are ongoing before the Regional Trial Court, Branch 32, City of Manila. In July 2010, Mr. Ocampo was charged with murder in a related case, which has not advanced even though the Supreme Court has long ruled that the trial in the main Leyte murder case should proceed. Mr. Ocampo's petition, which he filed in August 2010 asking for the case to be dropped for lack of probable cause, is still before the Regional Trial Court, Branch 18, of Hilongos in Leyte.

Mr. Ocampo, Ms. Maza, Mr. Casiño and Mr. Mariano were charged with murder in December 2006 (Nueva Ecija case). On 8 August 2018, the case against them was dismissed for lack of probable cause.

A charge of obstruction of justice was filed against Mr. Casiño in May 2007 with the City Prosecutor's Office in Ormoc City, Leyte (Investigation Slip No. 07-238). No action has been taken in the case. It can be argued that, since the case is punishable under special law, the prescriptive period has already lapsed.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Senate President for his cooperation and the information provided;
2. *Notes* that the charges in the Nueva Ecija case against Ms. Maza, Mr. Casiño and Mr. Mariano were finally dismissed; *decides* to close further examination of their cases in line with section 25(a) of its Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians), while deeply regretting that it took 12 years to establish that there was not enough evidence to bring the case to trial; *recalls* in this regard that the right to be tried without undue delay is an element of the right to a fair trial enshrined in the International Covenant on Political and Civil Rights, to which the Philippines is a party, and that it is designed to ensure that people are not kept in a prolonged state of uncertainty about their fate; *notes* that, with respect to the obstruction of justice charge against Mr. Casiño, no further information from him has been forthcoming, there is no indication that the charge has been pursued in the past and it is very likely that it can no longer be pursued under Filipino law;
3. *Takes note* that the judicial proceedings against Mr. Ocampo in connection with the multiple murder charges in the main Leyte case have progressed in recent years, albeit very slowly, which can be largely attributed to the multiple objections raised by the defence counsel for Mr. Ocampo; *sincerely hopes* that, now that the hearing of witnesses is well under way, the trial proceedings will advance speedily; *wishes* to be kept informed in this regard; *is concerned*, however, that the related Leyte case is at a complete standstill; *calls on* the Regional Trial Court to finally rule on Mr. Ocampo's petition; *wishes* to be kept informed of progress in this regard;
4. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
5. *Requests* the Committee to continue examining the case of Mr. Ocampo and to report back to it in due course.

Philippines

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



Philippine Senator Leila de Lima is escorted by police after 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 until June 2010. In that capacity, she led a series of investigations into alleged extrajudicial killings linked to the so-called Davao Death Squad in Davao City, where Mr. Duterte had long been mayor, and concluded that Mr. Duterte, now President of the Philippines, was behind the Davao Death Squad.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign to gain 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 killings of thousands of alleged drug users and drug dealers said to have taken place since President Duterte took office in June 2016. Since the start of her term as senator, she has been subjected 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,

Case PHL08

Philippines: Parliament affiliated to the IPU

Victim(s): Female opposition member of parliament

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

Submission of complaint(s): September 2016

Recent IPU decision: [October 2018](#)

IPU mission: [May 2017](#)

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: Meeting at the IPU Secretariat (March 2019)
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

which were subsequently amended, were brought in the wake of an inquiry by the House of Representatives into drug trading in New Bilibid Prison and 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.

On 10 October 2017, the Supreme Court dismissed Senator de Lima's petition to recall the arrest warrant issued against her and on 17 April 2018 denied her motion for reconsideration of its ruling. In addition to questioning the lack of probable cause, the petition also argued that it was for the Ombudsman, not the criminal courts, to examine the accusations brought against her in connection with alleged events that took place when she was Secretary of Justice.

On 27 July and 10 August 2018, Senator de Lima was arraigned in two of the three cases that are now before Branches 205 and 256 of the Regional Trial Court – Muntinlupa City. Hearings to present prosecution witnesses in the two cases before Branch 205, mostly convicted drug traffickers, are due to take place until the end of May 2020, with hearings in each case scheduled to be held twice a month on average.

A mission of the IPU Committee on the Human Rights of Parliamentarians to the Philippines in May 2017 concluded that there was no evidence to justify the criminal cases against Senator de Lima. Since then, the IPU has called for Senator de Lima's release and for the legal proceedings against her to be abandoned should serious evidence not be forthcoming soon. On 30 November 2018, the UN Working Group on Arbitrary Detention concluded that Senator de Lima's detention was arbitrary and that the appropriate measure would be to release her immediately.

Although Senator de Lima remains very politically active from detention and receives newspapers, journals and books, she has no access to the Internet, a computer, TV, radio or to an air-conditioning unit, despite a doctor's order. The Director General of the Philippine National Police (PNP) has denied her request to use electronic gadgets and have an air-conditioning unit installed as recommended by the Director of the PNP General Hospital.

The Senate of the Philippines has taken measures to ensure that the rights and privileges of Senator de Lima related to her position are upheld and that she is able to fulfil her duties as Senator despite her detention. In this regard, the current President of the Senate has also asked the Chief of the National Police for Senator de Lima to be allowed to conduct hearings at her place of detention in order to facilitate the work of the Senate Committee on Social Justice, Welfare and Rural Development, which she chairs. He has also requested that she be allowed to monitor Senate proceedings from her detention cell via live streaming on a tablet device. It appears that both requests have been denied.

Requests from Senator de Lima's defence counsel to the courts that she be granted a leave of absence from detention to participate in certain Senate sittings have remained unanswered.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the President of the Senate for his letter and for his efforts, and those of the Senate, to facilitate Senator de Lima's work in the Senate;
2. *Remains deeply concerned* that, more than two years after her arrest, Senator de Lima remains detained in the absence of any serious evidence to justify the charges; *considers* that the current calendar of scheduled hearings in two of the cases against her raises serious questions about the willingness of those in charge to proceed with the required swiftness; *recalls* in this regard the principle that justice delayed is justice denied;
3. *Recalls* that there are multiple, strong signs that the steps taken against Senator de Lima come in response to her vocal opposition to the way in which President Duterte was waging war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; *points out* in this regard the repeated violation of the principle of the presumption of innocence, the dubious choice of jurisdiction to present the accusations against her, the timing of the criminal

proceedings, the amendment of the charges and the reliance on testimonies of convicted drug traffickers, who were either promised favourable treatment in return, subject to physical intimidation in prison, or have an axe to grind against Senator de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice;

4. *Considers* that, in light of the foregoing, Senator de Lima should be released immediately and the legal proceedings against her dropped; *calls on* the authorities to take the necessary action forthwith;
5. *Requests* that, should charges not be dropped, an IPU trial observer monitor and report on respect for fair-trial standards in the cases before Branch 205 of the Regional Trial Court in Muntinlupa City, including in order to assess if and how existing concerns about the legality and fairness of the proceedings are properly reviewed;
6. *Remains disturbed* that before and during the criminal proceedings against Senator de Lima she has been subject to a public campaign of vilification by the highest state authorities, portraying her as an “immoral woman”; *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; and *strongly hopes* that it will do so without any further delay;
7. *Urges* the Supreme Court, in the event that Senator de Lima is not immediately released, to grant her occasional leave of absence from detention to participate in Senate sittings, as it has done on previous occasions in other similar cases; *wishes* to be kept informed on this point;
8. *Regrets* that Senator de Lima is still not allowed access to the Internet, TV and radio nor allowed to use a tablet or laptop, nor is she allowed to conduct at her place of detention hearings of the Senate committee that she chairs, since this would greatly facilitate her parliamentary work; *regrets* furthermore that the authorities have also yet to provide her with an air-conditioning unit, as ordered by her doctor; *sincerely hopes* that the relevant authorities will take the necessary steps to address these matters for as long as she remains in detention; and *wishes* to be kept informed in this regard;
9. *Requests* the Secretary General to convey this decision to the relevant authorities, including the Secretary of Justice, the Prosecutor’s Office and the relevant courts, 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.

Philippines

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



Senator Trillanes arrives at the Senate building in Manila on 25 September 2018. Senator Trillanes, a vocal critic of President Duterte, was arrested but posted bail in proceedings that the lawmaker decried as a "failure of democracy" | NOEL CELIS/AFP

PHL09 – Antonio Trillanes

Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

In July 2003, the then Navy Lieutenant Antonio Trillanes was arrested and charged with staging a coup d'état for his participation in what is known as the "Oakwood Mutiny", which took place in July 2003, when more than 300 soldiers took over the Oakwood Premier Hotel in Makati to make known their grievances over bribery and corruption within the army. While in detention, he was allowed to stand in the Senate elections held in May 2007. He was duly elected to the Senate, having received the eleventh highest number of votes. In November 2007, he led another uprising, after walking out of a court hearing and subsequently occupying the Peninsula Hotel in Manila, reportedly calling for the ousting of the then President, Ms. Gloria Macapagal-Arroyo.

In November 2010, President Benigno Aquino III issued Proclamation No. 75, which was approved by both houses of Congress, regarding an amnesty for Senator Trillanes and others for their participation in these events. Senator Trillanes' release was finalized in January 2011, when he applied for and was subsequently granted amnesty under the above-mentioned proclamation. In September 2011, the Makati Regional Trial Court (RTC) Branches 148 and 150 therefore dismissed the coup d'état and rebellion charges that were pending against Senator Trillanes.

Case PHL09

Philippines: Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint(s): September 2018

Recent IPU decision: [October 2018](#)

IPU mission: - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: Meeting at IPU Headquarters (March 2019)
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

However, on 31 August 2018, President Duterte, through Proclamation No. 572, decided that Senator Trillanes had not fulfilled the amnesty conditions and ordered his arrest. Senator Trillanes sought protective custody in the Senate until 25 September 2018, when RTC Branch 150, which had dealt with the original rebellion charges, issued a warrant for his arrest, basically reviving those charges. Senator Trillanes has challenged this decision before the Court of Appeal, where the matter is pending. The police subsequently escorted Senator Trillanes out of the Senate building. He was released on bail that same day in this case.

On 22 October 2018, RTC Branch 148, which had handled the original coup d'état case, dismissed the motion from the Department of Justice to issue an arrest warrant against Senator Trillanes, saying that the same court had already dismissed those charges in September 2011 and that that decision "has become final and executory". In reaching its decision, RTC Branch 148 established that there was only one application form given to each of the 277 amnesty applicants at the time. This single form, once completed, was immediately submitted to the DND Amnesty Committee and kept by the relevant authorities, without giving the applicants a copy of their fully completed form. The RTC Branch 148 also concluded that several witnesses, along with photo evidence, attested to the fact that Senator Trillanes had duly filled out the form, which included a section recognizing admission of participation/involvement and guilt, and that the due completion and submission of the form had been properly verified and validated at the time. The Department of Justice has challenged the decision of RTC Branch 148 before the Court of Appeal, where the matter is pending.

According to the complainant, President Duterte's Proclamation No. 572 is politically motivated and comes solely in response to Senator Trillanes' vocal opposition to the current administration. Mid-term elections will take place in the Philippines in May 2019, which means that half of the seats on the Senate will be up for election. Having served two terms on the Senate, Senator Trillanes is not eligible to stand again.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Remains deeply concerned* that Senator Trillanes is facing a renewed charge of rebellion with regard to the same incident and offence for which he, together with all others involved, was subsequently amnestied in 2011, and which charge runs counter to the legal principle that no one shall be tried twice for the same offence; *points out* in this regard that the RTC 148, on the charge of coup d'état, has heard, unlike the RTC 150, extensive evidence on the facts related to Senator Trillanes' completion and submission of his amnesty application form, including his admission of guilt; *concur*s with the analysis of the RTC 148 that this evidence shows that Senator Trillanes fulfilled the conditions for amnesty and that his inability to produce the original, or a copy, of his completed form is due to no fault of his own; *is concerned* to learn in this regard that the Filipino authorities are not able to locate the completed forms for any of the 277 individuals who applied for and were granted amnesty at the time;
2. *Considers* that the sudden calling into question of his amnesty, more than seven years after the amnesty procedure was properly completed, and the exclusive preoccupation of President Duterte's Proclamation No. 572 with Senator Trillanes' situation, when many other individuals were likewise amnestied in connection with the same events, give serious weight to the allegation that this is a targeted attempt to silence Senator Trillanes;
3. *Sincerely hopes* that the Court of Appeal will duly examine the legal issues that have arisen in this case; *decides* to send a trial observer to closely monitor and report on the appeal proceedings with regard to their compliance with international fair-trial guarantees;
4. *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;
5. *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 204th session (Doha, 10 April 2019) ²



Pictures of Selahattin Demirtas and Figen Yüsekdağ, jailed leaders of the Pro-Kurdish opposition Peoples' Democratic Party, are seen on a flag as supporters of the pro-Kurdish opposition Peoples' Democratic Party (HDP) and of the 'Hayir' ('No') campaign attend a rally for the upcoming referendum in Istanbul, on 8 April 2017. On 16 April 2017, Turkey voted on whether to change the current parliamentary system into an executive presidency. ©YASIN AKGUL / AFP

TUR-69 - Gülser Yıldırım (Ms.)
TUR-70 - Selma Irmak (Ms.)
TUR-71 - Faysal Sariyildiz
TUR-72 - Ibrahim Ayhan
TUR-73 - Kemal Aktas
TUR-75 - Bedia Özgökçe Ertan (Ms.)
TUR-76 - Besime Konça (Ms.)
TUR-77 - Burcu Çelik Özkan (Ms.)
TUR-78 - Çağlar Demirel (Ms.)
TUR-79 - Dilek Öcalan (Ms.)
TUR-80 - Dilan Dirayet Taşdemir (Ms.)
TUR-81 - Feleknas Uca (Ms.)
TUR-82 - Figen Yüksekdağ (Ms.)
TUR-83 - Filiz Kerestecioğlu (Ms.)
TUR-84 - Hüda Kaya (Ms.)
TUR-85 - Leyla Birlik (Ms.)
TUR-86 - Leyla Zana (Ms.)
TUR-87 - Meral Daniş Beştaş (Ms.)
TUR-88 - Mizgin Irgat (Ms.)
TUR-89 - Nursel Aydoğan (Ms.)
TUR-90 - Pervin Buldan (Ms.)
TUR-91 - Saadet Becerikli (Ms.)
TUR-92 - Sibel Yiğitalp (Ms.)
TUR-93 - Tuğba Hezer Öztürk (Ms.)
TUR-94 - Abdullah Zeydan
TUR-95 - Adem Geveri
TUR-96 - Ahmet Yıldırım
TUR-97 - Ali Atalan
TUR-98 - Alican Önlü
TUR-99 - Altan Tan
TUR-100 - Ayhan Bilgen

TUR-101 - Behçet Yıldırım
TUR-102 - Berdan Öztürk
TUR-103 - Dengir Mir Mehmet Fırat
TUR-104 - Erdal Ataş
TUR-105 - Erol Dora
TUR-106 - Ertuğrul Kürkcü
TUR-107 - Ferhat Encü
TUR-108 - Hişyar Özsoy
TUR-109 - Idris Baluken
TUR-110 - Imam Taşçier
TUR-111 - Kadri Yıldırım
TUR-112 - Lezgin Botan
TUR-113 - Mehmet Ali Aslan
TUR-114 - Mehmet Emin Adıyaman
TUR-115 - Nadir Yıldırım
TUR-116 - Nihat Akdoğan
TUR-117 - Nimetullah Erdoğan
TUR-118 - Osman Baydemir
TUR-119 - Selahattin Demirtaş
TUR-120 - Sirri Süreyya Önder
TUR-121 - Ziya Pir
TUR-122 - Mithat Sancar
TUR-123 - Mahmut Toğrul
TUR-124 - Aycan Irmez (Ms.)
TUR-125 - Ayşe Acar Başaran (Ms.)
TUR-126 - Garo Paylan
TUR-128 - Aysel Tuğluk (Ms.)
TUR-129 - Sebahat Tuncel (Ms.)
TUR-130 - Leyla Guven (Ms.)
TUR-131 - Ayşe Sürücü (Ms.)

²

A Turkish delegation expressed its reservations regarding the decision.

Alleged human rights violations:

- ✓ Failure to respect parliamentary immunity
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings and excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Arbitrary arrest and detention³
- ✓ Torture, ill-treatment and other acts of violence⁴
- ✓ Abusive revocation or suspension of the parliamentary mandate⁵

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 HDP parliamentarians, and former parliamentarians, throughout Turkey. Some of them also continue to face older charges in relation to the Kurdish Communities Union (KCK) first-instance trial that has been ongoing for eight years, while others face more recent charges. In these cases, their parliamentary immunity has allegedly not been lifted.

As of early April 2019, 10 former members of parliament continue to be held in detention under restrictive conditions applicable to terrorism suspects and convicts. According to the information provided by the complainant, Turkish courts have delivered around 10 new prison sentences against former and current members of parliament since the 139th IPU Assembly (Geneva, October 2018). The parliamentary authorities have stated that they were not able to confirm this number and have requested to be provided with additional information to help them to undertake verifications with the relevant authorities.

The complainant maintains its initial allegations that the charges against 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 Kurdistan Workers Party (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 situation in south-eastern Turkey and at the border with Syria (including denouncing alleged 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.

³ Concerns only the members of parliament placed in detention, as listed in the case report (section on detention).

⁴ Concerns only three male members of parliament (Mr. Adiyaman - TK/114; Mr. Behçet Yıldırım - TK/101; Mr. Mahmut Toğrul – TK/123) and three women members of parliament (Ms. Feleknaş Uca - TK/81, Ms. Besime Konca – TK/76 and Ms. Sibel Yığıtalp – TK/92).

⁵ Concerns 11 members of parliament (Ms. Selma İrmak – TK/70; Mr. Faysal Sariyıldız – TK/71; Mr. İbrahim Ayhan – TK/72; Ms. Besime Konca – TK/76; Ms. Figen Yüksekdağ – TK/82; Ms. Leyla Birlik – TK/85; Ms. Nursel Aydoğan – TK/89; Ms. Tugba Hezer Oztürk – TK/93; Mr. Ahmet Yıldırım – TK/96; Mr. Ferhat Encü – TK/107; and Mr. Osman Baydemir – TK/118).

Case TUR-COLL-02

Turkey: Parliament affiliated to the IPU

Victim(s): 61 individuals (18 parliamentarians and 43 former members of parliament, all members of the opposition (34 men and 27 women)

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

Submission of complaint(s): June 2016

Recent IPU decision: [October 2018](#)

IPU mission: [February 2014](#)

Recent Committee hearing(s): Hearing with the Turkish delegation and the complainant at the 140th IPU Assembly (April 2019)

Recent follow-up:

- Communication from the authorities: Letters from the President of the Turkish IPU Group (March 2019); observations of the authorities to the Committee case report (March, April 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter to the President of the Turkish IPU Group (March 2019)
- Communication addressed to the complainant: March 2019

The most prominent cases concern the two former co-chairs of the HDP, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ, who remain in detention. On 20 November 2018, the European Court of Human Rights ordered the immediate release of Mr. Demirtaş after finding violations of his fundamental rights. The Court found that most of the accusations brought against Mr. Demirtaş related directly to his “expressive political activity” and that a proper examination could not be detached from the general political and social background to the facts of the case and from the sequence of events emerging from the case files. The Court found that, in performing their balancing exercise, the national courts (including the Constitutional Court) did not pay sufficient regard to the fact that he was a member of parliament, but also one of the leaders of the political opposition, whose performance of his parliamentary duties required a high level of protection. The Court concluded that the extensions of Mr. Demirtaş’ pretrial detention and his subsequent inability to take part in parliamentary activities “constitutes an unjustified interference with the free expression of the opinion of the people and with applicant’s right to be elected and to sit in Parliament” and that it had been “established beyond reasonable doubt that the extensions of the applicant’s detention, especially during two crucial campaigns, namely the referendum and the presidential election, pursued the predominant ulterior purpose of stifling pluralism and limiting freedom of political debate, which is at the very core of the concept of a democratic society”. The Turkish authorities have not implemented the Court’s decision because it is not yet final, as it was appealed by both parties to the Grand Chamber of the Court.

Ms. Yüksekdağ was sentenced in a number of cases and continues to face multiple additional charges and proceedings. She was deprived of her HDP membership and banned from exercising any political activities pursuant to a court conviction. The IPU trial observer submitted her final report on the hearings she attended in Ms. Yüksekdağ’s trial from September 2017 until September 2018 (and one hearing in the case of Mr. Demirtaş in December 2017). Having reviewed a translation of the incriminated statements made by Ms. Yüksekdağ, the IPU trial observer found that the prosecution’s evidence put forward against Ms. Yüksekdağ “appears to fall squarely within her legitimate right to express her opinions, discharging her duty to draw attention to the concerns of those she represents”. The report concluded that the prospect for Ms. Yüksekdağ – and Mr. Demirtaş - to receive a fair trial was remote and that the political nature of both prosecutions was evident. The observer recommended that the IPU stands in solidarity with the former members of parliament and remains informed by continuing to observe the proceedings as much as possible.

Twelve court decisions, including two Constitutional Court decisions, issued against HDP members were translated and reviewed closely by the Committee on the Human Rights of Parliamentarians. The latter found that they showed no legal consistency. Similar speeches and acts were interpreted completely differently by different courts, or even differently in the same decision by the same court. Similar lack of consistency was found with respect to the manner in which public speeches and statements made by the members of parliament were evaluated (when such evaluation took place). The case law of the European Court of Human Rights appears to have been disregarded in relation to freedom of expression when evaluating whether an expression constituted incitement to violence or one of the other crimes with which the members of parliament were charged. Harsher restrictions and punishment were applied to the members of parliament because of their particular duties and influence contrary to the special protection afforded under international law to political expression by public and political figures. It is also the view of the Committee that the courts made their decisions on the basis of a presumption of guilt based on the assumption that the HDP, a political party authorized by the authorities of Turkey, and the PKK, an internationally recognized terrorist group, are one single organization.

The Turkish authorities firmly deny all the allegations made by the complainant. They have invoked the independence of the judiciary and the need to respond to security/terrorism threats and legislation adopted under the state of emergency to justify the legality of the measures taken. They have provided detailed information on the “provisional constitutional amendment” made by parliament in relation to parliamentary immunity in May 2016 to prosecute parliamentarians from all parties. They have asserted: that there is no “HDP witch-hunt” in Turkey; that women parliamentarians are not specifically targeted; that there is no Kurdish issue in Turkey and no current conflict in south-eastern Turkey; that Turkey is, however, facing serious terrorism threats and attacks at multiple levels involving the PKK and its “extensions”; that the HDP never publicly denounced the violent activities of the PKK; that its members, including members of parliament, made many statements in support of the PKK and their “extensions”; that they attended funerals of PKK suicide bombers and called for people to take to the streets, which resulted in violent incidents with civilian casualties; that this does not fall

within the acceptable limits of freedom of expression; that the Constitutional Court has reached such conclusions in three cases and that, in other cases, domestic remedies have not yet been exhausted; that the independence of the judiciary and the rule of law in Turkey must be respected; and that the European Court of Human Rights has not made any final decision about these issues.

In her December 2018 letter, the President of the Turkish IPU Group confirmed that an IPU delegation was welcome to come to Turkey after the local elections scheduled on 31 March 2019 to meet with the judicial and executive authorities but that prison visits would not be possible. Discussions to support the conduct of a joint mission of the IPU Executive Committee and the Committee on the Human Rights of Parliamentarians, led by the IPU President, have continued throughout the 140th IPU Assembly, and the Turkish authorities have asked to receive a detailed road map listing details of all the authorities and persons that the delegation wishes to meet and places that it wishes to visit after the Assembly.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the President of the Turkish IPU Group for her cooperation and for meeting with the Committee on the Human Rights of Parliamentarians during the 140th IPU Assembly to discuss the cases and concerns at hand, and for the information, documentation and video materials provided on that occasion; *takes due note* that the Turkish authorities have made a commitment to submit detailed information at a later stage;
2. *Continues to believe* that a mission to Turkey would help the IPU and its Committee on the Human Rights of Parliamentarians gain a better understanding of the situation of the HDP parliamentarians and former parliamentarians, but also of the broader political, security and human rights situation, including in south-eastern Turkey; *still firmly believes* that it is important that the IPU delegation is allowed to meet with some of the former parliamentarians in prison in addition to the meetings with all relevant authorities and other stakeholders; *urges once more* the Turkish authorities to grant permission to the IPU to meet with some of the prisoners and *calls on* the parliamentary authorities to endorse this request when resubmitting it to the Minister of Justice; *continues to hope* that the mission will take place soon;
3. *Observes with deep regret* that the parties continue to hold opposite positions and views about the factual allegations as well as about the underlying issues of concern and their causes, particularly as regards the situation in south-eastern Turkey; *notes* that a sticking point in the discussions is that this situation is viewed by one side as a conflict bred by unjust, discriminatory and violent state policies against the Turkish population of Kurdish origin and its representatives (otherwise referred to as the “Kurdish issue”), and by the other side as a serious terrorism issue warranting strict repression to preserve national security; *is convinced* that the resumption of a constructive political dialogue between the Turkish Government and the HDP – but also more broadly between the majority coalition and all opposition parties – is critical to support significant progress in the cases at hand given their background; *points out* that it is crucial to create an enabling environment, with sufficient space allowed to express political dissent and criticism of government policies, in order to ensure the success of any political dialogue; also *continues to firmly believe* that legislative reform to bring anti-terrorism legislation into line with international human rights standards would constitute a positive and long-awaited step forward that could help resolve the cases at hand; *decides* to consider ways for the IPU to act as a mediator to facilitate and support the resumption of such political dialogue and to promote legislative reform;
4. *Decides* to close the four cases pursuant to section 25(a) of its Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians) of Mr. Dengir Mir Mehmet, Mr. Erdal Ataş and Mr. Nimetullah Erdoğan, in light of the information recently provided by both parties that there are no longer any files or prosecutions pending against them following final acquittals, and of Mr. Ibrahim Ayhan, because he is deceased; *also decides* to declare admissible the new case of Ms. Ayşe Sürücü, and *requests* the Secretary General to submit the allegations to the Turkish authorities so that they can provide their observations; *further requests* the Committee to continue its factual verifications upon receipt of appropriate additional information from the

parties, so that progress can be made towards closing cases when the Committee is able to conclude their satisfactory resolution;

5. *Notes however with deep concern* that the information received so far by the Committee, particularly court decisions, confirms to a large extent that HDP parliamentarians have been charged and convicted primarily for making critical public statements, issuing tweets, participating, organizing or calling for rallies and protests, and political activities in furtherance of their parliamentary duties and their political party programme, such as mediating between the PKK and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political autonomy, and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Turkey (including denouncing crimes committed by the Turkish security forces in that context); *also points out with alarm* that an automatic assumption appears to have been made that members of the HDP, a legally-authorized political party, are members and supporters of the PKK terrorist group, which amounts to a presumption of guilt; *recalls* its long-standing concerns and recommendations, particularly those reflected in the IPU 2014 mission report in relation to similar patterns of political repression in the past on the basis of the anti-terrorism legislation;
6. *Considers therefore*, based on the information it has obtained so far, that many of the statements made by the HDP parliamentarians and the acts that were incriminated as acts of terrorism were political statements and activities that fall squarely under the scope of the right to freedom of expression, freedom of peaceful assembly and freedom of association, and should have been protected as such by Turkey despite their critical content and occasional harsh tone; *acknowledges nevertheless* that each individual case may differ and that a careful and objective evaluation is required on a case-by-case approach on the basis of clearly established jurisprudence of the European Court of Human Rights; *reiterates* its prior requests to the Turkish authorities to share information on the specific facts and evidence adduced to support the charges and convictions against all HDP members before it so that the Committee is in a position to review the files and make further assessments as appropriate; *notes with satisfaction* that some of this information has been forthcoming during the 140th IPU Assembly and *hopes* to receive more in the near future;
7. *Thanks* the IPU trial observer for the report; *points out* that: the Turkish IPU Group and the complainant were provided with the report on 6 March 2019 and asked to submit official observations ahead of the IPU Assembly; the complainant submitted observations in writing and found that the report was “objective and captures well the arbitrary decisions and political motivations that shape the legal proceedings” and urged the Committee to continue trial observations; the Turkish delegation to the 140th IPU Assembly only presented oral observations when meeting with the Committee and stated that written observations would be forthcoming at a later stage; the Turkish delegation informed the Committee orally that it rejects significant parts of the trial observation report on the grounds that it includes partial value judgements and false factual information; *notes with regret* that the Turkish delegation declined to provide a short preliminary summary of its main observations during the 140th IPU Assembly, although it was invited to do so in order to have them initially included in the present report so as to reflect the views of the Turkish delegation until more detailed observations were provided; *therefore takes due consideration* of the wish of the Turkish delegation to delay the presentation of the report to the Governing Council but *considers* that the Turkish authorities were given sufficient notice and opportunities to share their views in a timely manner; *hopes* that the Committee will soon receive the detailed observations of the Turkish authorities and *wishes* to be kept informed in that regard;
8. *Expresses deep concern* at the findings of the trial observation report in light of all the available information; *urges* the Turkish authorities to grant unrestricted access to observers to all public trials in strict compliance with the Turkish Constitution and laws and *expects* the Turkish Parliament to ensure that foreign observers mandated by the IPU and by its Member Parliaments are granted systematic access in the future; *expresses deep concern* in this regard at the information received from the Danish Parliament that, out of nine trial observation missions it officially sent to Turkey, only two were granted access to the courtroom and that Danish parliamentarians were systematically denied access to all hearings related to the former

HDP Co-Chairs, Mr. Demirtaş and Ms. Yüksekdağ, on various inconsistent and highly contestable grounds and practices; *notes* that this information lends further weight to the conclusions of the IPU trial observer, given their similarities; *is concerned* that the prospect of HDP members receiving a fair trial before independent courts may indeed be remote if all trial proceedings are conducted in such a way; *requests* the Committee to consider sending other trial observers to hearings in the future, and the IPU Secretariat to act as a facilitator to ensure the unrestricted access of any parliamentary delegation wishing to send trial observers to Turkey; *requests* such parliamentary delegations to keep it informed of the outcome of their missions;

9. *Renews its call* on all IPU Member Parliaments to take concrete actions in support of the urgent resolution of this case; and *hopes* to be able to rely on the assistance of all relevant regional and international organizations;
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 pursue his efforts to organize an IPU mission to Turkey that meets all appropriate requirements from a human rights perspective;
11. *Requests* the Committee to continue examining this case and to report back to it in due course.

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* *