



Inter-Parliamentary Union
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Uganda

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



Mr. Robert Kyagulanyi, aka Bobi Wine, arrives at the headquarters of his political party in Kampala, Uganda, on 21 August 2020. SUMY SADURNI/AFP

UGA19 - Robert Kyagulanyi Ssentamu (aka Bobi Wine)
UGA20 - Francis Zaake
UGA21 - Kassiano Wadri
UGA22 - Gerald Karuhanga
UGA23 - Paul Mwiru

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Impunity

A. Summary of the case

The case is set against the background of the by-election in Arua municipality in Uganda on 15 August 2018. Mr. Kassiano Wadri, a former parliamentarian, stood in that election as an independent and was elected. The four other parliamentarians, who are either independents or from the opposition, campaigned for Mr. Wadri.

The five individuals were violently arrested on 14 August 2018, on the eve of the by-election, together with 29 other people, in the district of Arua, after President Yoweri Museveni's convoy was reportedly pelted with stones. According to credible reports, the parliamentarians were tortured and ill-treated while in detention. All those arrested, including the five parliamentarians, were charged with treason, which in Uganda carries the death penalty. On 6 August 2019, the following additional charges were reportedly brought against them in relation to the same events: intent to annoy, alarm or ridicule the President,

Case UGA-Coll-01

Uganda: Parliament affiliated to the IPU

Victims: Five male parliamentarians, four independent and one opposition parliamentarian

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

Submission of complaint: August 2018

Recent IPU decision(s): October 2019

Recent IPU mission(s): January 2020

Recent Committee hearing(s): Hearing with the Ugandan delegation to the 139th IPU Assembly (October 2018)

Recent follow-up:

- Communications from the authorities: Letter from the Attorney General (October 2018); letter from the Speaker of Parliament to the Minister of Foreign Affairs (November 2018); letters from the Speaker of Parliament (February and October 2019)
- Communication from the complainant: September 2020
- Communications addressed to the authorities: Letters addressed to the Speaker of Parliament (March, April and September 2020)
- Communication addressed to the complainant: October 2020

incitement to violence, disobedience of lawful orders, failure to prevent obstruction of traffic, confusion or disorder during a public meeting, and failure to give right of way to the President.

The complainants claim that due process guarantees have been violated from the outset, that the parliamentarians are victims of political repression, as there is no evidence to support the charges brought against them, and that no action has been taken to hold to account the security forces that mistreated them upon their arrest.

The complainants further state that Mr. Kyagulanyi is a popular young parliamentarian, strongly supported among others by the four other parliamentarians in this case, and a well-known singer who enjoys wide popularity among young people. Through his songs and, since 2017 through his parliamentary work, he has been a vocal critic of President Museveni and his government. The complainants affirm that the authorities are doing everything possible to prevent Mr. Kyagulanyi from staging concerts and thus conveying his music and political message. These steps have gone as far as banning Mr. Kyagulanyi from wearing his trademark red beret.

From 25 to 29 January 2020, a Committee delegation conducted an on-site mission to Uganda. Despite its specific request, the delegation was not able to obtain concrete information on possible ongoing cases against police officers in connection with the allegations of torture against the five members of parliament. The delegation was told that no information could be disclosed as the matter was *sub judice*. Among other concerns, the delegation regretted that no progress seemed to have been made towards investigating these allegations and urged the relevant authorities to conduct a prompt, impartial and independent investigation, including, where appropriate, the filing of specific torture charges against the perpetrators and the application of the corresponding penalties under domestic law. It also urged parliament to use its oversight powers effectively to this end.

In a recent development, Mr. Francis Zaake was detained by police and the military again on the evening of Sunday 19 April 2020 and released on 29 April 2020. According to information received, Mr. Zaake was severely tortured while in detention, denied access to his lawyer and family, food and independent medical attention. According to the complainants, Mr. Zaake was initially charged with disobedience of lawful orders for distributing food to his community in the context of the COVID-19 pandemic. These charges were finally dropped in August 2020. The complainants also claim that no investigation has been carried out into these allegations of torture and that no action has been taken by parliament to support him in his search for justice. On 6 May 2020, Mr. Zaake lodged a motion before the High Court of Uganda in Kampala (Civil Division) against the Attorney General of Uganda and seven senior officials of the police and the military. The motion seeks to establish responsibility for the violation of his rights, including the right to a fair trial and to be protected from torture and ill-treatment, which are protected under Ugandan law. To date, the court has not issued a decision on that petition. According to the complainants, Mr. Zaake continues to receive credible death threats and intimidating messages from police officers because of his political opinions and to force him to step down from the political stage and put an end to his legal action against his alleged torturers.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Ugandan authorities, in particular parliament, for their cooperation during the recent mission by the Committee on the Human Rights of Parliamentarians to Uganda and for facilitating its conduct;
2. *Thanks* the Speaker of Parliament for her cooperation with the Committee during the mission; *regrets* nevertheless that she and the Ugandan Parliament chose not to meet virtually with the Committee at its most recent session, all the more so given that the issues of concern in this case directly affect parliament; *recalls* in this regard that the Committee's procedure is based on ongoing and constructive dialogue with the authorities, first and foremost the parliament of the country concerned;
3. *Fully endorses* the findings and recommendations contained in the mission report (CL/206/9/R.1);

4. *Reiterates its concern* that, more than two years after the events, no one has been held to account for the torture and ill-treatment of the five parliamentarians, and allegedly several others, in Arua in August 2018 by the security forces; *is gravely concerned* to learn that similar situations with similar outcomes apparently continue to occur in Uganda whereby parliamentarians are detained and tortured by state officials with impunity, as happened to Mr. Zaake in April 2020, which situation the Speaker of Parliament has publicly denounced; *reiterates* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious human rights violations and that attacks against the life and personal integrity of members of parliament, when left unpunished, not only violate the fundamental rights of individual parliamentarians and of those who elected them, but also affect the integrity of parliament and its ability to fulfil its role as an institution; *urges*, therefore, parliament to use its oversight powers effectively to ensure that the very serious and detailed allegations of torture against the five members of parliament are fully and immediately investigated, followed by whatever accountability steps are warranted as a result; and *requests* the parliamentary authorities to provide information on any relevant developments in this regard and on action taken by parliament to this end; *urges* the relevant authorities to ensure that the civil proceedings that Mr. Zaake has initiated against several named state individuals proceed quickly, bearing in mind that the level of detail of his petition should facilitate a speedy conclusion;
5. *Expresses concern* about detailed information received on serious and continuous threats, including credible death threats, targeting Mr. Zaake and the allegation that his complaints about these have not been examined; *urges*, therefore, the Ugandan authorities to make every effort, as is their duty, to identify the culprits, to bring them to justice, and to put in place the security arrangements that Mr. Zaake's situation requires; *considers* that parliament has a vested interest in using its powers to the fullest to help ensure that effective investigations on these threats are being carried out and protection offered to Mr. Zaake; *wishes*, therefore, to receive official information from the parliamentary authorities on any action taken to this effect;
6. *Remains deeply concerned* about the alleged serious violations of the right to a fair trial in proceedings initiated against the parliamentarians, as well as the other persons arrested in Arua in 2018, and about the nature and severity of the charge of treason, which carries the death penalty, especially in view of the allegations that it is unsupported by evidence and the facts at hand; *regrets* that, one year after the facts, the accused were subject to a set of additional charges in relation to the same events, including the charge of intent to annoy, alarm or ridicule the President with significant repercussions for free speech for the parliamentarians concerned; *considers* that, while fully adhering to the democratic principles of separation of powers and the independence of the judiciary, the *sub judice* rule cannot be invoked as an obstacle to justice or accountability and that parliament is responsible for helping to ensure that all state institutions, including the judiciary, fully abide by the rule of law; *urges*, therefore, parliament to take all necessary measures to ensure strict respect for due process guarantees in ongoing proceedings against parliamentarians; *requests* the parliamentary authorities to keep the IPU informed of any relevant developments in this regard and on any action taken by parliament to this end;
7. *Is deeply concerned* about the steps taken to allegedly prevent Mr. Kyagulanyi from conveying his political message, which run counter to his rights to freedom of expression and freedom of assembly; *urges* the authorities, therefore, to lift the restrictions imposed on him and to do everything possible to allow him full enjoyment of his right to freedom of expression as a parliamentarian or a singer and to meet and interact with his supporters;
8. *Reiterates its wish* to mandate a trial observer to monitor the upcoming court proceedings against the members of parliament; and *requests* the authorities to inform the IPU of the dates of the trials when available and of any other relevant judicial developments in the case;
9. *Urges* all sides to refrain from violence and also the relevant authorities to take all necessary measures to protect human life, to respect people's right to peaceful assembly, to take part in the conduct of public affairs, to vote and be elected, and to have equal access to elective office in view of the general elections to take place in 2021 in Uganda; *urges* in this regard, the relevant authorities to refrain from acts that could in any way undermine the civil and political rights of the five members of parliament;

10. *Requests* the Secretary General to convey this decision to the President, Minister of Foreign Affairs, Attorney General and the Speaker of the Parliament of Uganda, the complainants and any third party likely to be in a position to supply relevant information, and to proceed with all necessary arrangements to organize the trial observation mission;
11. *Requests* the Committee to continue examining this case and to report back to it in due course.