DEMOCRATIC REPUBLIC OF THE CONGO

- **COD-151**: Papy Niango Munshemvula
- **COD-COLL-03**: Two parliamentarians
- **COD-150**: Jean-Marc Kabund
- **COD-72**: Dieudonné Bakungu Mythondeke
- **COD-85**: Martin Fayulu Madidi
Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 211th session (Manama, 15 March 2023)

COD-151 – Papy Niango Iziamay Munshemvula

Alleged human rights violations

- Threats, acts of intimidation
- Lack of due process at the investigation stage
- Right of appeal
- Violation of freedom of opinion and expression
- Abusive revocation or suspension of the parliamentary mandate
- Abusive application of parliamentary sanctions
- Other

A. Summary of the case

On 15 June 2022, the mandate of Mr. Papy Niango Iziamay Munshemvula (Mr. Niango), an opposition member of parliament at the time of the alleged facts, was invalidated for absenteeism following a report issued by an ad hoc special committee created on 28 April 2022 and tasked with examining reports of unauthorized and unjustified absences at National Assembly plenary sittings by several members of parliament, including Mr. Niango.

According to the complainant, the criteria that the special committee was meant to take into account in assessing which cases of absence should be sanctioned and which should not, including cases of absence for medical reasons, as in Mr. Niango’s case, had not been clearly established. Mr. Niango reportedly tested positive for COVID-19 in January 2021 and his condition stabilized at the end of February of the same year. A certificate dated 1 March 2021 from the Department of Internal Medicine of the Faculty of Medicine of the University of Kinshasa states that he that he “was admitted to specialist consultations in cardiovascular diabetology at the University Clinics of Kinshasa, for a serious medical problem”.
The certificate shown recommended medical rest of three months, until 30 May 2021, and from 10 October to 26 November. After the end of his first medical rest period, Mr. Niango was unable to resume his parliamentary activities, as his health remained fragile. Another medical certificate dated 28 April 2022 stated that Mr. Niango had been hospitalized at the Kinshasa Medical Centre from 7 to 15 November 2021 and that his state of health upon discharge from the hospital required medical rest of 14 days, from 16 to 29 November 2021.

After receiving an invitation from the special committee, Mr. Niango reportedly appeared before its members on 28 April 2022, armed with the justifications for his absence from the plenary sittings of the National Assembly for the above-mentioned health reasons. Mr. Niango was heard by the said committee on the same occasion, which made no negative comments regarding his defence and the supporting documents that he had presented during his hearing. On 29 April 2022, Mr. Niango sent a letter to the chair of the special committee reminding him of the reasons for his absences and providing the required supporting documents.

Despite the medical certificates provided, the special committee recommended the invalidation of Mr. Niango's parliamentary mandate for absenteeism in a report that it reportedly did not forward to him. Moreover, this report was purportedly not circulated within the National Assembly, thus preventing a proper examination of the committee's deliberations. On 15 June 2022, the Bureau of the National Assembly reportedly examined the special committee's report during a plenary session held in camera and decided to invalidate Mr. Niango's mandate in accordance with the provisions of rule 95(6) of the Standing Orders of the National Assembly, which stipulates that “the mandate of a member of parliament is terminated by unjustified and unauthorized absence from more than one quarter of the sittings of a session”. On 22 June 2022, Mr. Niango's lawyer reportedly made an official request to receive a copy of the report that had led to the invalidation of the former member of parliament's mandate. On 25 June 2022, the rapporteur of the National Assembly acknowledged receipt of this request, stating that, “given that this matter is within the jurisdiction of another body, I will unfortunately not be able to grant your request”.

According to the complainant, the National Assembly invalidated Mr. Niango's mandate in violation of Articles 19(3) and 61 of the Constitution, which guarantee the rights of defence, insofar as the National Assembly adopted the conclusions of the special committee's report without having first heard Mr. Niango. The National Assembly also allegedly decided to submit the invalidation of Mr. Niango's mandate to voting by a show of hands, in disregard of rule 93(3) of the Standing Orders of the National Assembly, which stipulates that “in the event of deliberations concerning individuals, the vote shall be by secret ballot”.

The invalidation procedure and the creation of the special committee to examine Mr. Niango's unjustified absences are said to be an attempt to silence him and several other opposition members and are part of repressive measures taken against them. Mr. Niango has also initiated a petition against the Speaker of the National Assembly for poor conduct of discussions and disorder in the functioning of parliamentary committees and groups. The impeachment motion was reportedly signed by 132 members of parliament but was not tabled because the National Assembly mail service was apparently closed. The tensions linked to the invalidation of the mandate of Mr. Niango and other parliamentarians and the threats made by the Speaker of the National Assembly against them also reportedly prevented the filing of the petition.

Mr. Niango lodged an appeal with the Bureau of the National Assembly against the decision to invalidate his mandate. No action was reportedly taken following this appeal. Mr. Niango has not been a member of parliament since the Democratic Republic of the Congo parliamentary elections in July 2022.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. Notes that the complaint concerning the case of Mr. Papy Niango Iziamay Munshemvula (Mr. Niango) is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns an incumbent member of parliament at the time of the
initial allegations; and (iii) concerns threats, acts of intimidation, lack of due process at the investigation stage, lack of right of appeal, violation of freedom of opinion and expression, abusive revocation or suspension of the parliamentary mandate, and abusive application of parliamentary sanctions, and other violations, allegations that fall under the Committee's mandate;

2. **Regrets** the lack of response from the parliamentary authorities concerning Mr. Niango’s case; and **invites** the authorities to provide their observations in this case;

3. **Is concerned** at the allegation that the report of the special committee tasked with examining cases of unauthorized and unjustified absences was not forwarded to the complainant, thus depriving him of his right to know the exact grounds for the decision to recommend the invalidation of his mandate in the National Assembly; also **wonders why** the National Assembly is not sharing the report drawn up by the special committee with Mr. Niango; therefore **wishes** to receive a copy of the report in order to understand the reasons behind the invalidation of Mr. Niango’s parliamentary mandate and the exact periods of absence in question;

4. **Notes with concern** the complainant's allegations that the invalidation of Mr. Niango’s parliamentary mandate is linked to his open opposition to the Speaker of the National Assembly and to the impeachment motion he initiated against him; **stresses** that the invalidation of the parliamentary mandate should be in accordance with a clear procedure that complies with the provisions of the Standing Orders of the National Assembly and constitutional principles; and **calls on** the parliamentary authorities to examine Mr. Niango’s appeal as soon as possible and to provide the requisite remedies if the alleged violations are proven;

5. **Notes** that Mr. Niango’s situation is not an isolated case insofar as cases of invalidation for various reasons have already been submitted to the Committee in the past and continue to be examined by it; also **notes** that his case is part of a hostile political context vis-à-vis dissenting opposition voices; and **encourages** the Congolese authorities in this election year, when tensions may lead to further violations against members of the opposition, to take all necessary steps to guarantee the fundamental rights of all members of the National Assembly, former and current, irrespective of their political affiliation, in order to ensure that invalidation of the parliamentary mandate is not used to dismiss members for their political ideas;

6. **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;

7. **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 211th session (Manama, 15 March 2023)

COD-152 – Martin Kabuya Mulamba-Kabitanga
COD-153 – Crispin Ngbundu Malengo

Alleged human rights violations

- Excessive delays
- Violation of freedom of opinion and expression
- Violation of freedom of assembly and association
- Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

Mr. Martin Kabuya Mulamba-Kabitanga and Mr. Crispin Ngbundu Malengo were elected in the legislative elections held in December 2018. Upon accepting positions as provincial governors, deemed incompatible with their parliamentary mandates, they were reportedly suspended in April 2019 and replaced by their alternates.

In June and December 2020, Mr. Malengo and Mr. Kabuya were stripped of their governorship. Believing that the motions of impeachment against them were unfounded, the two governors filed a complaint with the Constitutional Court. In January and March 2021, the Constitutional Court dismissed Mr. Kabuya and Mr. Malengo who, having officially lost their governorships, initiated a procedure to be reinstated in their parliamentary functions. To this end, on 13 July 2021, legal counsel for the former members of parliament lodged a submission with the Constitutional Court requesting it to interpret the meaning and scope of paragraphs 1, 2 and 3 of Article 110 of the Constitution of 18 February 2006, amended by Law No. 11/002 of 20 January 2011, which list situations requiring the suspension of a parliamentary mandate, the acceptance of a political function that is incompatible with the exercise of a parliamentary mandate being one such situation.
On 1 March 2022, the Constitutional Court issued its ruling No. 1606 in which it clarified its position on the suspension of mandates saying that the latter “applies to any acceptance of an incompatible political office, whether elective or nominative, as envisaged under the Constitution amended on 20 January 2011. In this case, therefore, the parliamentarian whose mandate had been suspended can be reinstated immediately and rightfully in parliament, provided that during this same legislature, as provided in paragraph 6 of the interpreted article, the said parliamentarian or alternate has not deliberately left the political party on behalf of which they had obtained their mandate”. Thus, in its ruling No. 1606 of 1 March 2022, the Constitutional Court definitively ruled on the right of the two members of parliament to resume their parliamentary mandates stating that “the members of parliament whose mandates have been suspended must take up their place in parliament”. The complainants pointed out that, according to Article 168(1) of the Constitution, “The judgments of the Constitutional Court are not subject to appeal and are immediately enforceable. They are binding on the public authorities, on all administrative and judicial, civil and military authorities and on private individuals”. Reportedly, however, the parliamentary authorities have not enforced the Constitutional Court’s ruling No. 1606.

According to the documents submitted by the complainants, in a letter dated 14 March 2022 addressed to Mr. Kabuya, the Speaker of the National Assembly acknowledges the Constitutional Court’s ruling. However, although the parliamentary authorities had taken note of the Constitutional Court’s ruling on the right to resume their parliamentary mandates, the two former members of parliament were reportedly unable to sit in the National Assembly and did not receive their allowances.

Following the legislative elections in the Democratic Republic of the Congo in July 2022, Mr. Kabuya and Mr. Ngbundu are no longer members of parliament.

B Decision

The Governing Council of the Inter-Parliamentary Union

1. Notes that the complaint concerning the situation of Mr. Martin Kabuya Mulamba-Kabitanga and Mr. Crispin Ngbundu Malengo is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns two incumbent members of parliament at the time of the alleged facts; (iii) concerns excessive delays, violation of freedom of opinion and expression, violation of freedom of assembly and association, and other acts obstructing the exercise of the parliamentary mandate, allegations which fall under the Committee’s mandate;

2. Regrets the lack of response from the parliamentary authorities concerning the cases of Mr. Kabuya and Mr. Ngbundu; and invites the authorities to provide their observations in these cases;

3. Takes note of Constitutional Court Ruling No. 1606 of 1 March 2022, which ruled in favour of the reinstatement of former members of parliament in their parliamentary functions insofar as the political function they held had indeed ended while their parliamentary mandate was still valid; and notes with concern that the said ruling has not been executed despite the fact that the parliamentary authorities were allegedly notified thereof by the complainants and despite the immediate enforceability of Constitutional Court’s rulings;

4. Wishes to receive information on the reasons that have prevented the parliamentary authorities from implementing the Constitutional Court’s ruling by terminating the suspension of the two former members of parliament and paying them their exit allowances; and calls on the parliamentary authorities to ensure that Mr. Kabuya and Mr. Ngbundu obtain redress for the damage suffered;

5. Notes that Mr. Kabuya’s and Mr. Ngbundu’s situation are not isolated cases insofar as cases of invalidation for various reasons have already been submitted to the Committee in the past and continue to be examined by it; also notes that their cases are part of a hostile political context that is hostile vis-à-vis opposition voices; and encourages the Congolese authorities in this
election year, when tensions may lead to further violations against certain members of the National Assembly, to take all necessary measures to guarantee the fundamental rights of all its members, former and current, irrespective of their political affiliation, in order to ensure that the invalidation of the parliamentary mandate is not used to dismiss members of parliament for their political ideas;

6. \textit{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;

7. \textit{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 210th session (Kigali, 15 October 2022)

COD-150 – Jean Marc Kabund

Alleged human rights violations

✓ Threats, acts of intimidation
✓ Arbitrary arrest and detention
✓ Lack of due process in proceedings against parliamentarians
✓ Lack of due process at the investigation stage
✓ Violation of freedom of opinion and expression
✓ Failure to respect parliamentary immunity

A. Summary of the case

On 9 August 2022, Mr. Jean Marc Kabund, member of parliament and former First Vice-President of the National Assembly, was arrested and prosecuted for allegedly defaming the authorities, public insults and spreading false rumours after he delivered a speech on 18 July 2022 where he criticized the President of the Republic.

Mr. Kabund was arrested after the Bureau of the National Assembly allegedly authorized proceedings against him by lifting his parliamentary immunity on 8 August 2022. The Bureau of the National Assembly had allegedly already criticized the member of parliament’s speech in an official statement published on 21 July 2022.

The acts Mr. Kabund is accused of are covered under Ordinance-Law No. 300 of 16 December 1963 on defamation against the Head of State and other articles of the criminal law of the Democratic Republic of the Congo.

According to the complainant, the allegations against Mr. Kabund are a violation of his right to freedom of expression and are politically motivated given the growing political differences between the member of parliament and the party of President Tshisékedi to which Mr. Kabund belonged until
he decided to join the opposition and create a new political party – the Alliance for Change – on 18 July 2022. The complainant claims that the case is part of a political strategy aimed at intimidating and instrumentalizing justice against President Tshisékédé's political opponents.

On 12 August 2022, the Court of Cassation ordered that the member of parliament be placed under house arrest. However, this decision has not been implemented to date. At the first hearing of the trial, which took place on 5 September 2022, Mr. Kabund's lawyers demanded that the said decision be implemented before proceeding with the trial, which was postponed at their request. On 12 September 2022, the date of the adjournment, Mr. Kabund did not attend the hearing for medical reasons. His lawyers reported that Mr. Kabund’s health had deteriorated. The case was adjourned to 17 October 2022.

Since, to date, the judicial proceedings applicable to members of parliament have not been amended to allow for an appeal, if sentenced Mr. Kabund would not be able to appeal the decision.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. Notes that the complaint concerning Mr. Kabund is admissible, considering that the communication: (i) was submitted in due form by a qualified complainant under Section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns an incumbent member of parliament at the time of the initial allegations; (iii) concerns threats and acts of intimidation, arbitrary arrest and detention, lack of due process in proceedings against parliamentarians, lack of due process at the investigation stage, violation of freedom of opinion and expression, and failure to respect parliamentary immunity, allegations which fall under the Committee’s mandate;

2. Is troubled by the fact that Mr. Kabund continues to be held in detention, despite the Court of Cassation’s decision ordering him to be placed under house arrest; urges the national authorities to take all necessary measures to ensure implementation of that decision; wishes to appoint a judicial observer to monitor the progress of the proceedings against Mr. Kabund; and requests the authorities to inform it of the next trial date following the hearing of 17 October and to facilitate the work of the observer;

3. Notes with concern that the charges brought against the member of parliament are based on a speech given while exercising his fundamental right to freedom of expression, in which he criticized the Head of State and the policies of the Government; notes that Mr. Kabund’s speech was made in the context of launching his new opposition party and leaving the political party in power, of which he had until then been a member; also notes that, even if his speech was of a provocative nature, it fell within the scope of application of freedom of expression, guaranteed under Article 23 of the Constitution of the Democratic Republic of the Congo, and under Article 19 of the International Covenant on Civil and Political Rights, and should therefore have been protected;

4. Stresses that the right to freedom of expression is one of the pillars of democracy, is essential for members of parliament and covers all kinds of opinions, including opinions that may offend, shock or upset, as long as they respect the limits defined in the main human rights conventions and related case law;

5. Is deeply concerned at the measures taken by the Bureau of the National Assembly, which criticized Mr. Kabund’s speech in its statement and authorized proceedings against him and the lifting of his parliamentary immunity; notes with concern that this is not the first case of this kind submitted to it concerning the Democratic Republic of the Congo; and calls on parliament to protect its members’ right to freedom of expression in the future, regardless of their political affiliation, by taking all necessary measures to strengthen protection of the right to freedom of expression, including by repealing laws that establish offences constituting defamation against the Head of State or by bringing those laws into line with international human rights standards, as soon as possible, in order to prevent the recurrence of such cases; and wishes to be kept informed in this regard;
6. Regrets the absence of the possibility of appeal in legal proceedings against members of parliament of the Democratic Republic of the Congo, and recalls that the possibility of appeal constitutes one of the main elements of due process; and calls on the Parliament of the Democratic Republic of the Congo to create this possibility of appeal, so that parliamentarians’ right to a defence in legal proceedings is protected in the same way as that of other citizens of the Democratic Republic of the Congo;

7. Requests the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;

8. Requests the Committee to continue examining the case and to report back to it in due course.
COD-72 – Dieudonné Bakungu Mythondeke

Alleged human rights violations

✓ Threats, acts of intimidation
✓ Violation of freedom of movement

A. Summary of the case

Mr. Mythondeke was arrested, together with his family and bodyguards, in disputed circumstances, in February 2012. Charged with rebellion and breaches of state security, he was acquitted of all charges brought against him, but was sentenced in first and final instance by the Supreme Court on 25 February 2012 to 12 months’ imprisonment for incitement to hatred. The judicial proceedings were characterized by irregularities, which were largely upheld in the Supreme Court decision. Mr. Mythondeke was released on 28 January 2013 after serving his sentence. Mr. Mythondeke won a civil claims case against the Congolese State in 2015. However, according to the complainants, the State has not paid the amount ordered by the court. Consequently, Mr. Mythondeke lodged an appeal for review with the High Court in Goma which, in its decision of 18 March 2021, ordered the Congolese State to pay the amount due to Mr. Mythondeke for damages sustained during the attack on his home in 2012.
Given the concerns for their safety and the absence of any measures by the Democratic Republic of the Congo (DRC) authorities to ensure the protection of Mr. Mythondeke and his family and put an end to the threats, they took refuge abroad in early 2014. Even so, they continue to receive regular threats while in exile and, according to the complainant, their relatives who remained in the DRC are being subjected to intimidation. This is why Mr. Mythondeke cannot return to the DRC at this time without fearing for his life and why he was unable to stand as a candidate in the legislative elections held in December 2018. According to the complainant, Mr. Mythondeke wishes to relocate to another country but has not obtained any assistance in regard to relocation because, according to United Nations reports, he provided substantial financial and political support to an armed group before his arrest. Mr. Mythondeke denies those accusations and invokes the presumption of innocence.

The Speaker of the National Assembly reported in a letter dated 21 August 2017 that he had asked the executive branch to launch investigations into the reasons why Mr. Mythondeke went into exile and to seek proposals on how to facilitate his return. However, since 2017, the parliamentary authorities have not provided any information on Mr. Mythondeke’s situation.

In December 2020, the complainant reported that Mr. Mythondeke had returned to the DRC in deplorable travel conditions. The return was said to have been motivated by the failure of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Brazzaville to take any action.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. **Deplores** the lack of information from the parliamentary authorities regarding the situation of Mr. Mythondeke since 2017, especially since the parliamentary authorities continue to provide updated information on the other DRC cases referred to the Committee;

2. **Recalls** that the Supreme Court’s decision of 2012 confirmed that, at the time of his arrest, Mr. Mythondeke’s fundamental rights had been violated; that he was convicted for an offence that had not even been listed in the initial charges for which he had been prosecuted; that his parliamentary immunity had been violated; and that the authorities had not taken the necessary measures to ensure his security upon his release from prison in 2013, which caused him to leave the DRC and relocate in another country;

3. **Notes** that Mr. Mythondeke and his family had to return to the DRC as the UNHCR in Brazzaville had not made any progress regarding their request for relocation, reportedly because the relocation appears to have been hampered by information contained in the United Nations’ reports, even though Mr. Mythondeke had been acquitted by the DRC courts of all the charges brought against him; notes, nevertheless, that Mr. Mythondeke’s security situation in the DRC has improved, as he is reportedly no longer under surveillance or subject to acts of intimidation;

4. **Notes**, also, the decision of the High Court in Goma ordering the Congolese State to pay the amount due to Mr. Mythondeke for damages sustained during the attack on his home in 2012; **underlines** that the procedure for indemnification was established in 2015 and, consequently, **appeals** to the competent authorities to execute this court decision so that Mr. Mythondeke and his family can close this chapter and return to decent living conditions in the DRC; **invites** the parliamentary authorities to follow the case and take all necessary measures to finally resolve this case; and, in that regard, **wishes** to be informed of the progress made therein;

5. **Requests** the Secretary General to convey this decision to the competent authorities, the Minister for Justice of the DRC, the complainants, as well as to any third party likely to be in a position to supply relevant information;

6. **Decides** to continue examining this case.
Democratic Republic of the Congo

DRC/85 - Martin Fayulu

Decision adopted unanimously by the IPU Governing Council at its 199th session (Geneva, 27 October 2016)

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Martin Fayulu, a member of the National Assembly of the Democratic Republic of the Congo (DRC), and to the decision it adopted at its 198th session (March 2016),

Referring to the letters from the Speaker of the National Assembly of 21 April and 3, 13 and 19 October 2016, and information provided by the complainant,

Considering that Mr. Fayulu, an opposition member of parliament and leader of the political party Engagement for Citizenship and Development (ECIDé), was arrested by intelligence service officers on 14 February 2016 and that the following has been placed on the file regarding the incident:

- According to the complainant, Mr. Fayulu was assaulted, arrested and arbitrarily detained by the aforementioned officers before being released the same evening; his vehicle and personal belongings were confiscated and never returned back to him; Mr. Fayulu filed a complaint against his arbitrary arrest and violation of his rights and parliamentary immunity, but there has been no progress in the legal proceedings to date;

- According to the complainant, this incident was intended to prevent a day of national protest scheduled for 16 February 2016 ("Dead City Day"), which was being jointly organized by opposition parties;

- According to the complainant, the Public Prosecutor had initiated proceedings against Mr. Fayulu (file reference: RMP V/039/PGR/SMM) and requested the National Assembly to lift his parliamentary immunity; Mr. Fayulu had not been informed of the charges laid against him, or of the lifting of his immunity;

- The Speaker of the National Assembly stated that he had intervened immediately to secure Mr. Fayulu’s release, referring the matter to the Public Prosecutor to ensure compliance with the Constitution and his parliamentary immunity, and publicly expressing his position in a tweet; he believed that, as the case had been referred to the courts, the National Assembly was no longer responsible for the matter; he recommended that Mr. Fayulu should hire the services of a lawyer and use the procedure provided for in Congolese law (procédure de prise à partie), instead of relying on the Bureau of the National Assembly’s intervention; he has not confirmed whether legal proceedings were initiated against Mr. Fayulu, or a request submitted for the lifting of his parliamentary immunity;

Considering that, on 19 September 2016, Mr. Fayulu sustained a serious head injury during a protest organized by the opposition in Kinshasa, and that the following allegations and information have been placed on file concerning the incident:
The complainant alleges that a police officer deliberately targeted Mr. Fayulu, firing a rubber bullet at him at point-blank range; he stated that six young people surrounding the member of parliament at the protest were themselves hit by live bullets; he criticizes the National Assembly for not denouncing the incident and failing to provide assistance to Mr. Fayulu; the complainant further expresses concern following the announcement by the Public Prosecutor of charges being brought against the organizers of the protest and several members of the opposition following the demonstrations, and of a foreign travel ban being imposed on them; the complainant stated that it was not known whether these measures had been taken against Mr. Fayulu;

The Speaker of the National Assembly underscored that the 19 September 2016 protest had had "no direct impact" on the authority of Mr. Fayulu as an elected representative, and reiterated that the National Assembly had condemned the acts of violence committed during the public protests of 19 and 20 September 2016; he reported that criminal investigations were under way and that the National Assembly could not interfere in the conduct of the case; he expressed the hope that the investigations would proceed quickly and that the identified perpetrators of these acts of violence would be brought to justice; he reaffirmed his commitment to the protection of human rights and the rights of parliamentarians "provided they also prove themselves to be exemplary models in respecting the rights of others and the laws of the Republic";

The Speaker of the National Assembly emphasized that he had instructed the 2nd Deputy Speaker to enquire about Mr. Fayulu’s situation following the protest and to take appropriate measures; he affirmed the Bureau’s willingness to provide Mr. Fayulu with support, while recalling that the process to provide medical care was subject to fulfilling certain normal administrative formalities; he pointed out that it was Mr. Fayulu’s responsibility to inform the Bureau of the circumstances and place of his hospitalization, so that the assistance mechanism could be activated, as the Bureau did not have the authority to do so on its own,

Considering that the complainant alleges that the two incidents that took place in 2016 involving Mr. Fayulu came after a number of previous tactics had been used to impede his political activities and to weaken the opposition; that these tactics were orchestrated against him because of his role in coordinating an opposition platform, his stance in favour of the Head of State stepping down at the end of his term of office, and the announcement of his intention to run in the presidential elections,

Considering that these successive incidents occurred at a time of political tension and mounting repression of the opposition because of the elections initially scheduled for the end of 2016, which had been postponed despite objections from the opposition,

Considering that the preliminary investigation report published on 20 October 2016 by the United Nations Joint Human Rights Office in the DRC on the acts of violence committed during the protests in Kinshasa from 19 to 21 September 2016 concluded that more than 422 people had been victims of human rights violations by State agents (with at least 48 killed, 75 injured and nearly 300 persons illegally arrested and detained by State agents); that the report states that security forces are responsible for most of the violations committed during the protests and that they used excessive force to prevent the protesters from peacefully exercising their freedom of assembly and protest; the report confirms that the Government announced that charges were being brought against the “organizers of the protest, those involved in the acts of violence and the masterminds” and that a travel ban was being imposed; that the report recommends, in particular, that the Congolese authorities promptly carry out independent, thorough, credible, transparent and impartial investigations into the violations committed by State agents and to bring the alleged perpetrators to justice, regardless of their ranks and positions, and to guarantee the protection of the fundamental rights of the political opponents; that the report further confirms that the protesters are also to blame for several acts of violence, including the death of four police officers and the destruction and looting of numerous public buildings, and also recommends investigations and the imposition of sanctions against those responsible for the violence,

1. Thanks the Speaker of the National Assembly for the information provided and his cooperation;
2. **Expresses its concern** about the violence to which Mr. Fayulu was subjected during the 19 September 2016 protest and the inaction of the Congolese courts with respect to the incidents of February 2016, even more so given the worsening political situation in the DRC;

3. **Urges** the relevant authorities to bring the perpetrators to justice as soon as possible following independent, credible, transparent and impartial investigations, and to return the belongings illegally confiscated back to Mr. Fayulu as a matter of urgency;

4. **Recalls** that impunity constitutes a threat both to parliamentarians and to those they represent and therefore assaults against parliamentarians, if they remain unpunished, not only violate the fundamental rights of those concerned, but affect the ability of parliament to fulfill its institutional mission; **stresses** that parliament has an obligation to ensure that no effort is spared in holding the perpetrators accountable; and **urges** the National Assembly to take all appropriate steps as soon as possible and to keep the Committee informed in that regard;

5. **Also wishes to know** whether Mr. Fayulu: (i) is currently subject to legal proceedings, a request to lift his parliamentary immunity and/or a travel ban; (ii) filed a formal complaint following the 19 September 2016 protest; (iii) submitted a formal request for medical assistance to the National Assembly, in accordance with the normal procedure; and (iv) used the *procédure de prise à partie* with respect to the incidents of February 2016;

6. **Requests** the Secretary General to convey this decision to the competent authorities, the Minister of Justice 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.