Inter-Parliamentary Union
For democracy. For everyone.

Gabon

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)

© Justin Ndoundangoye

GAB-04 – Justin Ndoundangoye

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Mr. Justin Ndoundangoye, a Gabonese member of parliament, has been held in pretrial detention at the Central Prison of Libreville since 9 January 2020, allegedly accused of instigating misappropriation of public funds, bribery, money laundering and conspiracy offences.

Among other irregularities, the complainant claims that Mr. Ndoundangoye was reportedly kept in police custody for a period of two weeks in violation of the provisions of article 56 of the Criminal Procedure Code of Gabon, which provides for a maximum period of 48 hours, renewable once. During these two weeks, he was allegedly questioned by officials of the Directorate General for Counter-Interference and Military Security, who were not judicial police officers. He was

Case GAB-04

Gabon: Parliament affiliated to the IPU

Victim: Member of the majority

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

Submission of complaint: May 2020

Recent IPU decision: March 2021

IPU mission(s): - - -

Recent Committee hearing: Hearing with the parliamentary authorities at the 143rd IPU Assembly (November 2021)

Recent follow-up:
- Communication from the authorities: Letter from the Speaker of the National Assembly (November 2020)
- Communication from the complainant: September 2021
- Communication to the authorities: Letter to the Speaker of the National Assembly (October 2021)
- Communication to the complainant: October 2021

reportedly unable to speak to his lawyers while in police custody. The lawyers did not have access to the file, either to the procedural documents or to the evidence against him. The only document available to the defence was the remand order.

Mr. Ndoundangoye was reportedly unable to comment on the facts of the case as he had allegedly been charged at the start of the preliminary examination. Moreover, the indictment issued by the Public Prosecutor is said to be seriously flawed; for example, it does not include the precise date when the offences were committed or any other concrete evidence establishing the alleged offences. The complainant claims that the member of parliament was detained without being questioned by an investigating judge, in violation of applicable domestic legislation.

On 26 December, Mr. Ndoundangoye was reportedly arrested "*manu militari*" by armed officers before the Bureau of the National Assembly of Gabon had endorsed the lifting of his parliamentary immunity and therefore before it had come into effect. Likewise, Mr. Ndoundangoye's bank assets were said to have been frozen from the beginning of December 2019 in the absence of any legal action and before his parliamentary immunity had been lifted.

The complainant claims that, on the night of 25 to 26 January 2020, after ordering him to take all his clothes off, three hooded prison officers tied up Mr. Ndoundangoye with his hands behind his back. They allegedly asked him to lie flat on his stomach, legs apart. Held by each leg by an officer, he was reportedly beaten on his testicles, carried out by the third officer using a thick rope knotted at the end. He reportedly received sustained blows to his testicles for some time, and was then turned over, knees pressed against his temples, legs still apart, and subjected to blows by the knotted rope to his penis. He also reportedly at this time received several punches and kicks to his ribs and hips. The officers allegedly photographed him while he was naked. Before leaving him, they are said to have strongly advised him not to say a word to his lawyer, otherwise they would come back for "a killing". In taking these threats further, they allegedly threatened to rape his wife and kill his children if the matter was publicized.

A request for intervention in the form of protection was reportedly sent to the specialized investigating judge, with an official copy sent to the Public Prosecutor. In particular, the judge was reportedly asked to order that Mr. Ndoundangoye be admitted to hospital so he could undergo appropriate examinations following the alleged acts of torture. This request reportedly remained unanswered.

The complainant claims that Mr. Ndoundangoye has been held in inhumane and degrading conditions in solitary confinement since the start of his detention. In particular, he is reportedly being held in a very small cell without access to drinking water. It is said that he is only able to stay hydrated thanks to the cans of water brought to him by his family every week. He reportedly has no access to a telephone and cannot consult with his lawyers or receive visits from family members.

In a letter dated 19 November 2020, the Deputy Secretary General of the National Assembly of Gabon provided a timetable for the procedure implemented by the National Assembly to lift Mr. Ndoundangoye's parliamentary immunity, as well as copies of related documents. On 28 November 2021, during its hearing before the Committee on the Human Rights of Parliamentarians, the Gabonese delegation described the procedure followed by the National Assembly in ruling on the lifting of Mr. Ndoundangoye's parliamentary immunity. It was noted that the *ad hoc* parliamentary committee responsible for examining the request to lift his parliamentary immunity had been created in accordance with the combined provisions of Article 38 of the Gabonese Constitution and article 96 of the Rules and Procedures of the National Assembly, in strict adherence to the procedure laid down, and that the resolution for lifting Mr. Ndoundangoye's parliamentary immunity had been adopted by the National Assembly in plenary session (133 votes in favour, 7 votes against and 1 abstention). On the allegations of torture, the delegation said that the prosecutors, the directorate general of research and the national human rights commission had conducted enquiries within their respective remits and concluded that Mr. Ndoundangoye's rights had not been violated. The delegation also stated that the member of parliament was no longer being held in solitary confinement and that he could be visited with a specific authorization issued by the competent authority.

Finally, the delegation undertook to keep the Committee on the Human Rights of Parliamentarians informed of any new events and said that the Gabonese Parliament was willing to cooperate with the IPU so as to arrive at a satisfactory settlement of the case.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Thanks* the Gabonese delegation for the information provided at the hearing with the Committee on the Human Rights of Parliamentarians held during the 143rd IPU Assembly; and *notes with satisfaction* that the National Assembly is ready to cooperate with the IPU so as to reach a satisfactory settlement of this case as soon as possible;

2. *Notes with interest* the initiative in November 2021 of some members of parliament to visit Mr. Ndoundangoye in prison, even though this was unlikely to have led to success; *remains deeply concerned* about the member of parliament's continued detention, in view of the worrying allegations concerning his conditions of detention and the allegedly political nature of the legal proceedings; and *urges* the national authorities once again to take all necessary steps to ensure Mr. Ndoundangoye can fully enjoy his rights, in particular his rights to life, to the respect for physical integrity, and to judicial guarantees, especially in the current context of the COVID-19 pandemic, which has meant that those detained in prison and other confined places are at increased risk of catching the disease;

3. *Expresses its deep concern* at the allegations of threats, acts of torture and other cruel, inhumane or degrading treatment against the member of parliament concerned and at the fact that, according to the complainant, the perpetrators have not been prosecuted; *urges* in this regard the parliamentary authorities to provide detailed information and copies of relevant documents concerning the conclusions of the investigations reportedly carried out by several Gabonese institutions into these allegations; and *thanks* the Gabonese delegation for the commitment it made at the Committee hearing to provide its support on this issue;

4. *Remains deeply concerned* at the allegations of serious violations of the right to a fair trial in the proceedings against the member of parliament; and *reiterates its wish* to receive official and detailed information on the facts justifying each of the charges brought against Mr. Ndoundangoye and on the current state of the case;

5. *Requests* the Committee on the Human Rights of Parliamentarians to send a delegation to Gabon as soon as possible and as soon as the COVID-19-related public health situation permits, so as to establish the facts and meet with all authorities exercising legislative, executive or judicial powers, as well as the prison authorities and any other institution, civil society organization or individual in a position to provide relevant information; *tasks* the delegation with visiting the detained member of parliament; *hopes* that the competent national authorities will cooperate fully and that the mission will help to swiftly find satisfactory solutions to this case in accordance with applicable national and international human rights standards; and *thanks* the Gabonese delegation to the 143rd IPU Assembly for the assurances of support that it has given on this matter;

6. *Requests* the Secretary General to convey this decision to the Speaker of the National Assembly of Gabon, the complainant and any third party likely to be in a position to supply relevant information;

7. *Requests* the Committee to continue examining the case and to report back to it in due course.