



# INTER-PARLIAMENTARY UNION

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## MADAGASCAR

- CASE No. MAG/05 - LANTONIAINA RABENATOANDRO**
- CASE No. MAG/06 - HENRI RANDRIANJATOVO**
- CASE No. MAG/07 - MAMISOA RAKOTOMANDIMBINDRAIBE**
- CASE No. MAG/08 - RAYMOND RAKOTOZANDRY**
- CASE No. MAG/09 - RANDRIANATOANDRO RAHARINAIVO**
- CASE No. MAG/10 - ELIANE NAÏKA**
- CASE No. MAG/11 - MAMY RAKOTOARIVELO**
- CASE No. MAG/12 - JACQUES ARINOSY RAZAFIMBELO**
- CASE No. MAG/13 - YVES AIMÉ RAKOTOARISON**
- CASE No. MAG/14 - FIDISON MANANJARA**
- CASE No. MAG/15 - STANISLAS ZAFILAHY**
- CASE No. MAG/16 - RAKOTONIRINA HARIJAONA LOVANANTENAINA**

***Resolution adopted unanimously by the IPU Governing Council at its 193<sup>rd</sup> session  
(Geneva, 9 October 2013)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of the above-mentioned persons, all members of the Parliament of Madagascar that was suspended in March 2009, and to the resolution it adopted at its 189<sup>th</sup> session (October 2011),

*Bearing in mind* the letter of 26 March 2013 from the Speaker of the Transitional Congress and that of 23 September 2013 from the President of the Court of Appeals and the special commission within the Supreme Court,

*Recalling* that this case must be viewed in the context of events in Madagascar since the March 2009 coup d'état and the establishment of the transition regime, in particular the Accord concluded in March 2011 by the Malagasy political players and the last crisis-exit road map, entitled "Engagements des acteurs politiques malgaches" (Pledges by the Malagasy Political Players) and signed on 16 September 2011 under the auspices of the Southern African Development Community (SADC), Article 20 of which provides that "[...] The High Transitional Authority (HAT) shall urgently develop and promulgate the necessary legal instruments, including an amnesty law, in order to guarantee the political freedom of all Malagasy citizens in the inclusive process culminating in the holding of free, fair and credible elections", and Article 26 of which states that "Any person who has been a victim of the political events between 2002 and the date of signature of the present road map who may have suffered prejudices of any nature whatsoever shall be entitled to reparation and/or compensation by the State in accordance with modalities laid down by the Malagasy Reconciliation Council",

*Recalling* that the persons concerned all belonged to the movement of the deposed President, Mr. Ravalomanana; *noting* that two of them (Mr. Rakotoarison and Mr. Mananjara) have reportedly since left that movement,

*Recalling furthermore* that Mr. Mamy Rakotoarivelo, currently the Speaker of the Transitional Congress, confirmed in a letter dated 27 December 2012 that all the persons concerned were members of the Transitional Congress or the Higher Transitional Council at that time, except Mr. Randrianatoandro Raharinaivo, former Speaker of the Transitional Congress, who is no longer a member of parliament,

Considering that the following information is at present on file with respect to the situation of the persons in question:

- Mr. Lantoniaina Rabenatoandro, Mr. Henri Randrianjatovo, Mr. Mamisoa Rakotomandimbindraibe and Mr. Raymond Rakotozandry were arrested on 23 April 2009 and accused of distribution of weapons and money, incitement to civil war and civil unrest, and destruction of public property; they were released on 18 August 2009 after being sentenced the same day to a suspended 12-month prison term; an appeal against the sentence was pending at the end of 2011; no information has been received about the appeal, and it is therefore not clear whether in fact it took place and led to a final decision;
- Ms. Eliane Naïka was arrested on 12 September 2009 by military personnel who beat her up and took her away, without an arrest warrant, to a gendarmerie post; she was charged with concerted use of force, with jeopardizing internal State security, and with insults and abuse; on 18 September 2009 she was released on parole and left the country; on her return to Madagascar, the authorities and the sources differed as to whether the proceedings against her had been dropped; Ms. Naïka was granted *de jure* amnesty on 15 February 2013;
- Mr. Randrianatoandro Raharinaivo was arrested on 15 September 2009 and charged with concerted action to commit violence, unauthorized gatherings, and insults and abuse; he was released on parole on 19 November 2009; no information has been received about any progress in the proceedings or about a final judicial decision on his case; he was elected to the post of Speaker of the Transitional Congress in October 2010 and is apparently no longer a member of parliament;
- Mr. Mamy Rakotoarivelo, Mr. Jacques Arinosy Razafimbelo, Mr. Yves Aimé Rakotoarison and Mr. Fidison Mananjara were the subject of judicial proceedings on the charge of undermining public order; according to information supplied by the authorities in October 2010 and also by the President of the Court of Appeals, the Public Prosecutor has decided to dismiss the case; Mr. Rakotoarivelo was also arrested on 15 March 2011 and charged with instigating the bomb attack on Mr. Rajoelina's vehicle on 3 March 2011; he was subsequently released; no information has been received about the current status of the judicial proceedings;
- Mr. Stanislas Zafilahy, head of the parliamentary group of the Ravalomanana movement and presently Deputy Speaker of the Transitional Congress, was arrested on 11 November 2010 and accused of taking part in an unauthorized gathering, refusing to obey a dispersal order and destroying private property; according to the sources, the gathering in question was an authorized demonstration against the constitutional referendum of November 2010; according to the authorities, Mr. Zafilahy was charged with criminal conspiracy and undermining public security and was given a suspended 10-month prison sentence on 9 February 2011; an appeal was pending at the end of 2011; according to the information provided by the Ministry of Justice in April 2011, other criminal proceedings had been launched against Mr. Zafilahy and 27 other people accused of criminal conspiracy and undermining public order, with hearings scheduled to start on 19 May 2011; no information has been received since 2011 about progress in these proceedings;
- Mr. Rakotonirina Lovanantenaina was arrested with four other persons on 22 February 2011; he was reportedly accused of an offence against State security by encouraging a group of amateur journalists to set up and run an illegal radio station called "Radio-n'ny Gasy"; the source affirms that this radio station was established in response to the closure by the authorities of some 90 private radio stations in 2010 and the detention of all journalists critical of the authorities; Mr. Lovanantenaina requested parole, which was initially refused but finally granted on 29 September 2011; the judicial proceedings continue, however, and Mr. Lovanantenaina is regularly summoned to appear for hearings; in September 2013 the source indicated that Mr. Lovanantenaina's judicial file did not show any conviction,

Considering that, following the postponement of the elections, the new timetable provides for the presidential election to be held on 25 October 2013 and the legislative elections on 20 December 2013 (along with the second round of the presidential election, if one is required),

*Recalling* that a law granting amnesty in the interests of national reconciliation was promulgated in May 2012; Article 2 of the amnesty law provides that a broad, *ipso jure* amnesty applies to the members of State institutions, political figures, the leaders of political parties and entities and civilians for offences related to the political events that occurred between 2002 and 2009; amnesty may also be granted on request to individuals being prosecuted but not eligible for *ipso jure* amnesty; and a special Supreme Court commission and a Malagasy Reconciliation Council (CRM) has been set up to investigate and rule on amnesty applications,

*Considering* that the president of the special commission has confirmed that Ms. Naïka was granted amnesty by a decision of 15 February 2013, but also indicated that no other parliamentarian had submitted an amnesty application to the competent authorities to date, and in the case of Mr. Zafilahy and Mr. Lovanantenaina, as the events in question took place in 2010-2011, their amnesty applications should be addressed to the CRM,

*Taking into consideration furthermore* that, according to the source, the competent authorities are applying the amnesty adjudication procedure in a selective and politicized manner, with amnesties being granted only in exchange for political concessions; that this is one reason why the parliamentarians with pending charges have not submitted applications, along with the fact that they consider the charges to be unfounded, and prefer to defend themselves before an independent justice system so that they can be exonerated of what they consider to be trumped-up accusations; that the persons concerned are not informed about the status of the proceedings in their cases; that most of the judicial proceedings are reportedly suspended but none formally closed, so that they could be resumed at any time; and that this judicial uncertainty, like the amnesty adjudication, constitutes a way of putting pressure on the parliamentarians,

*Considering* that the laws on the presidential and legislative elections stipulate that parliamentarians subject to judicial proceedings who have not been convicted at final instance are free to take part in the political process and in the forthcoming elections as voters and candidates; and that several had indeed registered as candidates for the legislative elections, according to the source,

1. *Sincerely thanks* the authorities for their cooperation and for the information conveyed;
2. *Notes with interest* that Ms. Naïka has been granted amnesty, and that some of the persons concerned have been able to register for the legislative elections;
3. *Points out* that the legal situation of the various parliamentarians remains uncertain, and *expresses its desire* to obtain detailed information on all of the legal cases, including the status of any appeals;
4. *Notes with concern* that, according to the source, the persons concerned are themselves without clear information about the status of the legal proceedings being conducted against them, and the resulting judicial uncertainty, which exposes them to pressure from the authorities; *takes note furthermore* of the source's allegation that the competent authorities are applying the amnesty adjudication procedure in a selective and politicized manner, with amnesties being granted only in exchange for political concessions;
5. *Requests* the Secretary General to convey this resolution to the parliamentary authorities and to the sources, inviting them to make any observations and provide the information requested;
6. *Requests* the Committee to continue examining this case.