



Inter-Parliamentary Union

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Madagascar

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 163rd session (virtual session, 1 to 13 February 2021)



Alphonse Maka President of the Malagasy Fampihavanana Council (National Reconciliation Council - CFM) speaks to the press at the opening of the session on May 31 2018 in Antananarivo to try to find a political solution to the current crisis in the country. RIJASOLO/AFP

- MDG05 - Lantonina Rabenatoandro
- MDG06 - Henri Randrianjatovo
- MDG07 - Mamisoa Rakotomandimbendraibe
- MDG08 - Raymond Rakotozandry
- MDG09 - Randrianatoandro Raharinaivo
- MDG10 - Eliane Naïka (Ms.)
- MDG11 - Mamy Rakotoarivelo
- MDG12 - Jacques Arinosy Razafimbelo
- MDG13 - Yves Aimé Rakotoarison
- MDG14 - Fidison Mananjara
- MDG15 - Stanislas Zafilahy
- MDG16 - Rakotonirina H. Lovanantenaina

Alleged human rights violations

- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays

A. Summary of the case

The 12 former parliamentarians concerned were all proponents of former deposed President, Mr. Ravalomana, and who were detained and prosecuted after speaking out against the unconstitutional dissolution of parliament in March 2009 by Mr. Rajoelina (who subsequently became President of the High Transitional Authority until the 2013 elections). They have been freed and have resumed their political activities.

Except for Ms. Naïka, who was granted amnesty in February 2013, the proceedings initiated against the former parliamentarians have not been formally closed by the authorities. Most of them were charged with public order offences in 2009. Five of them were given suspended prison terms. According to the complainant, all proceedings against the former parliamentarians were politically motivated. While most of the proceedings appear to have been suspended since 2010, none of the

Case MDG-COLL-01

Madagascar: Parliament affiliated to the IPU

Victims: 12 former members of the Parliament unconstitutionally dissolved in March 2009 belonging to the opposition (11 men and one female)

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

Submission of complaint: April 2009

Recent IPU decision: [October 2013](#)

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Message from the Director of Human Rights and International Relations, Ministry of Justice (January 2018)
- Communication from the complainant: January 2021
- Communication addressed to the authorities: Letter to the Speaker of the National Assembly (December 2020)
- Communication addressed to the complainant: January 2021

former parliamentarians has received written confirmation that the charges against them have been dropped or that the proceedings have been closed.

Despite the promises made by the authorities in 2011 through the establishment of a road map to end the crisis, which provided for State amnesty, reparation and/or compensation for any person who had been a victim of the 2002–2011 political events, they have still not taken any conclusive measures to officially close the case once and for all against the 12 former parliamentarians. In 2018, the Minister of Justice had indicated that the Malagasy Reconciliation Council (CFM) was the only body empowered to decide whether or not to grant amnesty to former parliamentarians.

According to information published in press articles and corroborated by the complainant, in September 2020 the President of the Malagasy Reconciliation Council had reportedly indicated that in August 2019 the CFM had submitted to the attention of the Prime Minister and Justice Minister two preliminary draft decrees – one establishing a National Solidarity Fund (FNS) and a National Compensation Fund (CNRI), and the other on the terms of compensation. According to the CFM President, it is now up to the executive and legislative authorities to follow up on the matter.

To date, the authorities have not provided any official information on the Malagasy Reconciliation Council, which, in four years of existence, has failed to implement the provisions provided for in the road map to end the crisis established in 2011.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deplores* the prolonged silence of the Malagasy parliamentary authorities in this case;
2. *Deeply regrets* that, despite the commitment made by the Malagasy authorities and the official written requests of the IPU addressed to the parliamentary and judicial authorities, it has been almost 10 years since the former parliamentarians have been left in legal uncertainty and have been calling for their case to be resolved through the implementation of the road map to end the crisis established in 2011;
3. *Notes with concern* that the legal uncertainty in which the former parliamentarians concerned find themselves and the absence of any amnesty, reparation and/or compensation, despite the authorities' efforts in favour of reconciliation, represent both a serious denial of justice against them and a risk that legal proceedings may be reactivated at any time, which prevents them from moving on;
4. *Calls on* the Malagasy authorities, therefore, to take serious measures aimed at officially closing the cases of the former parliamentarians concerned once and for all and to provide, where appropriate, official confirmation that the prosecutions and legal proceedings have indeed been dropped;
5. *Invites* the authorities to provide information on: (i) the role of the Malagasy Reconciliation Council in granting amnesty, reparation and/or compensation; (ii) the two preliminary draft decrees that have reportedly been submitted to the attention of the Prime Minister and the Minister of Justice concerning the establishment of a National Solidarity Fund (FNS), a National Compensation Fund (CNRI) and terms of compensation; and (iii) to clarify the reasons preventing the CFM from ruling once and for all on the case of former parliamentarians;
6. *Recalls* that it is the responsibility of the parliamentary authorities to ensure the effective implementation of the commitments made by the executive and judicial powers contained in the road map to end the crisis; *urges*, the Malagasy Parliament, therefore, to take the necessary steps to help resolve the case of former parliamentarians by taking concrete steps; and *calls on* parliament to keep the Committee informed of any action it has taken to this end;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Justice, the President of the Malagasy Reconciliation Council, and to the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.