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Niger

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



© Seidou Bakari

NER-116 – Seidou Bakari

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

On 28 July 2015, the Bureau of the National Assembly authorized the arrest of member of parliament Seidou Bakari, Chair of the parliamentary group of the MODEN/FA Lumana-Africa party, without first affording him a hearing. He was arrested at the end of his parliamentary mandate, on 16 May 2016.

Mr. Seidou Bakari is accused of supposedly embezzling public funds in 2005 while he was coordinating a food crisis unit placed under the Office of the Prime Minister.

According to the complainant, the member's parliamentary immunity was not respected, in that he was not given a hearing by the Bureau and that no criminal accusation had been made against him before his immunity was lifted. The complainant considers that his continuing pretrial detention for five years and the lack of progress in the judicial proceedings are deliberate and represent violations of Mr. Bakari's fundamental right to be tried without excessive delays and in an equitable manner.

Case NER-116

Niger: Parliament affiliated to the IPU

Victim: A former opposition member of the National Assembly

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

Submission of complaint: September 2015

Recent IPU decision: February 2021

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the delegation of Niger at the 140th IPU Assembly (April 2019)

Recent follow up:

- Communication from the authorities: Letter from the Deputy Speaker of the National Assembly (April 2019)
- Communication from the complainant: January 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2022)
- Communication to the complainant: January 2023

The complainant asserts that the charges brought against Mr. Bakari are unfounded and that he is the victim of political and judicial harassment because of his political opinions.

According to the parliamentary authorities, the case is not political in nature and the relevant procedures have been respected. In a letter sent in April 2019, the Deputy Speaker of the National Assembly stated that because the case was ongoing before the courts in Niger and owing to the principle of the separation of powers, the National Assembly could not intervene in any way.

On 12 March 2021, Mr. Bakari was granted a provisional release. On 25 June 2021, in a public hearing, the supervisory chamber of division specializing in economic and financial affairs of the Niamey Court of Appeal found that there were insufficient charges of embezzlement and complicity in embezzlement of public funds against Mr. Bakari and, as a result, ruled that there were no grounds for further proceedings against the accused. The complainant reports that the Public Prosecutor subsequently lodged an appeal in cassation, which is still pending to date.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Welcomes* Mr. Bakari's release; *recalls*, nevertheless, its previous conclusions regarding the prolonged length of his pretrial detention, which does not appear to be in keeping with Articles 131 to 133 of the Code of Criminal Procedure of Niger; *considers*, in this regard, that the implementation of the measure of pretrial detention must first take account of the fundamental rights of the persons detained in order to ensure that criminal investigations adhere to the principle of proportionality, and that a repressive practice of pretrial detention runs counter to the presumption of innocence, which is a core principle of the rule of law;
2. *Notes* that the Niamey Court of Appeal found that there were insufficient charges of embezzlement and complicity in embezzlement of public funds against Mr. Bakari and, as a result, no grounds for continuing the proceedings against him; *regrets*, however, the delay in the proceedings at the preliminary investigation stage and the fact that they have still not come to an end;
3. *Reiterates* its call on the authorities of Niger to do their utmost to guarantee that the case is processed quickly, fairly and independently, in strict compliance with national, regional and international fair trial standards and the fight against corruption; *requests* the authorities to keep it informed of the decisions taken by the courts in Niger, including on reparations if any, as well as of any new developments in the proceedings, in particular regarding the outcome of the appeal in cassation currently under way;
4. *Reiterates* its invitation to the parliamentary authorities to resume dialogue with the Committee and to relay any remaining concerns in this case to the relevant authorities, while respecting the principle of the separation of powers; *recalls* in this regard that the Committee, in keeping with its Rules and Practices, does its utmost to foster dialogue with the authorities of the country concerned, and first and foremost with parliament, with a view to finding a satisfactory solution to the cases before it;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be able to provide relevant information or to help reach a satisfactory solution to the case;
6. *Decides* to continue examining this case.