

SENEGAL

- SEN-08: Ousmane Sonko
- SEN-07: Khalifa Ababacar Sall



Inter-Parliamentary Union

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Senegal

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 165th session (virtual session, 6-21 May 2021)



Senegalese opposition leader Ousmane Sonko talks to the media at his party's headquarters in Dakar on 8 March 2021 | Seyllou / AFP

SEN-08 - Ousmane Sonko

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ 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

Mr. Ousmane Sonko is president of *PASTEF-Les Patriotes*, a Senegalese opposition party. He is a member of the National Assembly and has his sights set on high office. Mr. Sonko came third in the 2019 presidential elections. According to the complainant, the present case is part of ongoing efforts by the ruling party to remove any possibility of change in political leadership.

On 8 February 2021, Mr. Sonko was summoned by the *Section de recherche de la Gendarmerie nationale* (National Gendarmerie's Research Section) after a complaint of rape was filed against him, an offence he categorically denied. On the same day, the Public Prosecutor requested the opening of a judicial investigation and the investigating judge requested the lifting of Mr. Sonko's parliamentary immunity. The National Assembly plenary voted in favour of lifting his immunity on 26 February 2021.

On 3 March 2021, Mr. Sonko was summoned to court and went accompanied by a crowd of activists. According to the complainant, the procession was stopped half way by security forces, who arrested Mr. Sonko.

The complainant alleges several irregularities concerning Mr. Sonko's detention, the criminal proceedings and the procedure for lifting parliamentary immunity.

Case SEN-08

Senegal: Parliament affiliated to the IPU

Victim: Male opposition member parliament

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

Submission of complaint: March 2021

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from to the authorities: May 2021
- Communication from the complainant: April 2021
- Communication addressed to the authorities: Letter addressed to the Speaker of the National Assembly (April 2021)
- Communication addressed to the complainant: April 2021

According to the parliamentary authorities, the case is not of a political nature and procedures have been followed. On the day he was summoned by the judge, Mr. Sonko allegedly mobilized members and supporters of his party and refused to follow the route designated by the law enforcement authorities, thus creating serious public disorder problems. All this took place against a background of a ban on gatherings and demonstrations, following the health emergency declared because of COVID-19. These acts of public disorder were reportedly the reason for his arrest and detention for insurgency and practices and acts likely to disrupt public security, which are offences provided for and punished in the Senegalese Criminal Code.

Mr. Sonko was released under judicial supervision on 8 March 2021. The Public Prosecutor dropped the initial charges brought against him for public disorder. The investigation into the allegations of rape is ongoing.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities for the information provided;
2. *Notes* that the complaint 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);
3. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged facts;
4. *Notes* that the complaint concerns allegations of arbitrary arrest and detention, lack of due process at the investigation stage, violation of freedom of opinion and expression, and failure to respect parliamentary immunity, allegations which fall within the Committee's mandate.
5. *Considers*, therefore, that the complaint appears to be *prima facie* admissible under the provisions of section IV of the Procedure and *declares itself* competent to examine the case.
6. *Requests* the Secretary General to convey this decision to the Senegalese authorities and the complainant.



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Decision adopted by consensus by the IPU Governing Council at its 203rd session (Geneva, 18 October 2018)¹



Dakar's mayor and head of the African Union's observation team, Khalifa Ababacar Sall, speaks during a press conference, on 13 March 2011 AFP Photo/Seyllou

SEN-07 – Khalifa Ababacar Sall

Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Mr. Khalifa Ababacar Sall, mayor of the city of Dakar at the time of the alleged offences, was elected as a member of parliament in the legislative elections of 30 July 2017 while on remand in custody since 7 March 2017 by the Public Prosecutor in connection with allegations of misappropriation of public funds amounting to around 1.8 billion CFA francs. On 13 November 2017, members of the National Assembly sent a letter to the Speaker of the National Assembly calling for the release of Mr. Sall and a stay of proceedings against him because he is entitled to parliamentary immunity. The Public Prosecutor then applied to the National Assembly, through the Ministry of Justice, to have his parliamentary immunity lifted. Following this request, the National Assembly met in plenary session on 25 November 2017, without inviting Mr. Sall – thereby depriving him of his right to defend himself publicly – and lifted his parliamentary immunity.

At the conclusion of a trial lasting nearly two and a half months, Mr. Sall was sentenced on 30 March 2018 to five years in prison without parole and a fine of 5 million CFA francs. Following referral of Mr. Sall's case, the Economic

Case SEN-07

Senegal: Parliament affiliated to the IPU

Victim: Opposition member of parliament and mayor of the city of Dakar

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

Submission of complaint: November 2017

Recent IPU decision: - - -

IPU mission: - - -

Recent Committee hearing: Meeting between Committee Secretary and Mr. Khalifa Sall's lawyers on the occasion of the OIF-UPR seminar in Dakar (July 2018)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2018)
- Communication from the complainant: September 2018
- Communication from the IPU: Letter to Speaker of the National Assembly (February 2018)
- Communications from the IPU to the complainant: July and September 2018)

¹

The delegation of Senegal expressed its reservations regarding the decision.

Community of West African States (ECOWAS) Community Court of Justice highlighted several judicial irregularities in the conduct of the trial and the preliminary investigation. The findings of the ECOWAS court and the irregularities it identified were not taken into account by the Court of Appeal, which upheld the lower court's decision on 30 August 2018. Mr. Sall's lawyers withdrew from the appeal proceedings in order to denounce the arbitrariness of the trial. They appealed to the Court of Cassation, the remedy of last possible resort.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Takes note* of the information provided by the parliamentary authorities in January 2018; *regrets*, however, the lack of any subsequent reply to the requests, including information on the nature of the allegations against Mr. Sall;
2. *Considers* that the ECOWAS court's findings, namely the failure to respect the principle of the presumption of innocence, given that the content of the investigations carried out was made public, the arbitrary nature of Mr. Sall's detention, since following his election he enjoyed parliamentary immunity, and the rejection without examining the merits of the various appeals lodged by him with the investigating judge, largely confirm the complainant's allegations that the proceedings against Mr. Sall had been marred by serious flaws;
3. *Notes* that Mr. Sall's lawyers withdrew from the appeal proceedings in order to denounce the various judicial irregularities and other inconsistencies at the appeals stage, as well as the summary nature of justice served;
4. *Notes with concern* that these judicial irregularities are due to the political nature of the case because, according to the complainant, Mr. Sall is subject to politically motivated legal proceedings, as the allegations of corruption were made only a few months before the July 2017 legislative elections and after Mr. Sall had announced his intention to stand; that these proceedings are also intended to invalidate Mr. Sall's candidacy for the next presidential elections scheduled for February 2019, a candidacy he made official from his cell; that his opposition to the constitutional amendments initiated by the President has also been a motivating factor in proceedings against him;
5. *Underscores* that Mr. Sall challenged the appellate court's decision in the Court of Cassation and that, if the latter upholds the first- and second-instance decisions, Mr. Sall will be permanently removed from the presidential race; *hopes* that the remedy of last resort will be examined in an independent and impartial manner and in compliance with relevant national and international standards;
6. *Considers* that the allegations of misappropriation of funds for which Mr. Sall was convicted are connected to the use of funds allocated to an "advance fund" placed at his disposal when he was mayor, a facility created several years ago and reportedly used by his predecessors without ever being challenged, according to the complainant; *reiterates* its wish to receive information in this respect from the parliamentary authorities in order to better understand the substance of the allegations;
7. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.