



Inter-Parliamentary Union  
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# 149th IPU Assembly

Geneva  
13–17 October 2024



Governing Council  
Item 18(a)

CL/214/18(a)-R.1  
Geneva, 17 October 2024

## DRAFT DECISIONS

### Committee on the Human Rights of Parliamentarians

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# Bangladesh



©IPU Election, Saber Hossain Chowdhury, 28th IPU President, 16 October 2014.

## BGD-16 – Saber Chowdhury

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Acts of violence
- ✓ Lack of due process in proceedings against parliamentarians

### A. Summary of the case

Mr. Saber Hossain Chowdhury, a former member of Bangladesh's Parliament and Honorary President of the Inter-Parliamentary Union (IPU), is being prosecuted in a series of criminal proceedings that were initiated after anti-government and pro-democracy protests in Bangladesh brought about the resignation of the Prime Minister and the dissolution of Parliament in early August 2024.

According to the complainant, the multiple charges against Mr. S. H. Chowdhury are politically motivated and range from sedition, conspiracy and murder to unlawful assembly and use of explosives in connection with incidents that happened between 2015 and 2024. The complainant alleges that these proceedings were initiated as part of a revenge spree against prominent members of the ousted Awami League party, of which Mr. S. H. Chowdhury was a key figure. The complainant also states that due process has not been followed in the proceedings against Mr. S. H. Chowdhury, raising concerns about the legitimacy of the charges and the protection of his fundamental rights. The cases are still under investigation, and key details are yet to be disclosed.

According to the complainant, in addition to the alleged politically motivated legal proceedings, Mr. S. H. Chowdhury's personal safety is under threat. The complainant reports that his family residence was attacked and set on fire on 5 August 2024, with the assailants allegedly stating their intent to murder Mr. S. H. Chowdhury and his family.

In September 2024, the Interim Government of Bangladesh announced the creation of a ministerial committee, along with one committee for each district, with the purpose of identifying and recommending the withdrawal of proceedings filed with the intent to harass political leaders, activists

### Case BGD-16

**Bangladesh:** Parliament affiliated to the IPU

**Victim:** Male majority member of parliament

**Qualified complainant(s):** Section I(1)(a) and (d) of the Committee Procedure (Annex I)

**Submission of complaints:** August 2024

**Recent IPU decision(s):** - - -

**Recent IPU Mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: October 2024
- Communication to the authorities: Letter to Chief Adviser to the Interim Government (October 2024)
- Communication to the complainant: October 2024

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and innocent persons. According to the complainant, this arrangement appears to place the onus on the accused to demonstrate their innocence.

On 6 October 2024, Mr. S. H. Chowdhury was arrested and brought to court the following day. Pictures and videos provided by the complainant and available on the internet show Mr. S. H. Chowdhury entering and leaving the courthouse with his physical integrity visibly at risk with eggs, stones and blunt objects being thrown at him. According to the complainant, five additional cases were unexpectedly added to the file during the trial, denying Mr. S. H. Chowdhury's legal team a fair opportunity to defend him.

On 8 October 2024, Mr. S. H. Chowdhury was granted bail in six of the cases for which he had been detained. However, other cases, including seven for murder, remain pending. Upon his release, Mr. S. H. Chowdhury was immediately taken to a hospital for medical treatment, as he had been seriously injured when a brick was thrown at his head, causing severe trauma. The complainant has expressed serious concerns about Mr. Chowdhury's safety while in hospital given the lack of law enforcement protection for both Mr. S. H. Chowdhury and his family. The complainant also urges that all travel restrictions on Mr. S. H. Chowdhury be lifted so that he can seek urgent medical treatment abroad, as his life remains in danger in his home country.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning Mr. Saber Hossain Chowdhury, a former member of Bangladesh's Parliament and Honorary President of the Inter-Parliamentary Union is admissible, considering that the complaint (i) 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); (ii) concerns a sitting Member of Parliament at the time of the alleged facts; and (iii) concerns allegations of threats and acts of violence and intimidation and of lack of due process in proceedings against parliamentarians, which are allegations that fall within the Committee's mandate;
2. *Welcomes* the release on bail of Mr. S. H. Chowdhury on 8 October 2024 and the assurances provided by the Interim Government to the IPU leadership that the new administration in Bangladesh is striving to restore the rule of law and address the numerous challenges it faces with full respect for legality; however, *expresses its deep concern* at the acts of violence to which Mr. S. H. Chowdhury was allegedly subjected during his court appearance on 7 October 2024, resulting in injuries; *considers* that, as Mr. S. H. Chowdhury was in custody, the State of Bangladesh had a responsibility to ensure his safety and physical integrity and that it failed to fulfil this duty; *urges* in this regard the relevant authorities to take the necessary steps to investigate these attacks, to provide information on progress made in the identification and punishment of those responsible, to ensure that such acts of violence do not recur in future court appearances and to ensure that he continues to receive medical treatment in a safe place for as long as necessary;
3. *Expresses its deep concern* also at the allegations of serious violations of the right to a fair trial in the proceedings against Mr. S. H. Chowdhury and at the alleged instrumentalization of the judiciary as part of a revenge campaign against prominent members of the Awami League; *recalls* that the fairness of proceedings implies, among other things, the absence of any direct or indirect influence, pressure, intimidation or interference, from whatever source and for whatever motive; *requests* the relevant national authorities to provide official and detailed information on the facts justifying each of the charges brought against Mr. S. H. Chowdhury and

*expresses its firm hope* that due process will be guaranteed at all stages of the proceedings in accordance with applicable national and international standards;

4. *Fails to understand* how the creation of *ad hoc* non-judicial mechanisms with the aim of identifying and recommending the withdrawal of proceedings filed with the intention of harassing political leaders, which appears to first require the accused to prove their innocence, would contribute to ensuring that the requirements of competence, independence and impartiality of the judiciary are met; *recalls* that the presumption of innocence, which is fundamental to the protection of human rights, places the burden of proof on the prosecution, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of the doubt, and requires that persons accused of a criminal offence must be treated in accordance with this principle; *wishes* in this regard to receive official and detailed information on the mandate and legal basis of the functioning of these bodies;
5. *Decides* to mandate a trial observer to monitor the upcoming court proceedings in the present case; and *wishes* to be kept informed of the dates of the trial when available and of any other relevant judicial developments in the case;
6. *Requests* the Secretary General to convey this decision to the relevant authorities of Bangladesh, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Democratic Republic of the Congo



Jean Marc Kabund © Twitter

## COD-150 – Jean Marc Kabund

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ 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

On 9 August 2022, Mr. Jean Marc Kabund, member of parliament and former First Deputy Speaker of the National Assembly, was arrested and prosecuted for defaming the authorities, public insults and spreading false rumours after he delivered a speech on 18 July 2022 where he criticized the President of the Republic.

Mr. Kabund was arrested after the Bureau of the National Assembly allegedly authorized proceedings against him by lifting his parliamentary immunity on 8 August 2022. The Bureau of the National Assembly had allegedly already criticized the member of parliament's speech in an official statement published on 21 July 2022.

The acts of which Mr. Kabund is accused are covered under Ordinance Law No. 300 of 16 December 1963 on defamation against the Head of State and other articles of the criminal law of the Democratic Republic of the Congo.

According to the complainant, the allegations against Mr. Kabund are a violation of his right to freedom of expression and are politically motivated given the growing political differences between the member of parliament and the party of President Tshisékédi to which Mr. Kabund belonged until he decided to join the opposition and create a new political party – *l'Alliance pour le changement* (the Alliance for Change) – on 18 July 2022. The complainant claims that the case is part of a political strategy aimed at intimidating and instrumentalizing justice against President Tshisekedi's political opponents.

On 12 August 2022, the Court of Cassation ordered that the member of parliament be placed under house arrest. However, this decision was never implemented. At the first hearing of the trial, which

### Case COD-150

**Democratic Republic of the Congo:**  
Parliament affiliated to the IPU

**Victim:** An opposition member of parliament

**Qualified complainant(s):** Section 11(a) of the Committee Procedure (Annex I)

**Submission of the complaint:** August 2022

**Recent IPU decision:** October 2023

**Recent IPU mission(s):** - - -

**Recent Committee hearing(s):** Hearing with the delegation of the DRC at the 149th IPU Assembly in Luanda (October 2024)

### Recent follow-up:

- Communication from the authorities: Letter from the First Deputy Speaker of the Senate (September 2022)
- Communication from the complainant: May 2024
- Communications to the authorities: letters to the Speaker of the National Assembly (July, September 2024)
- Communication to the complainant: September 2024

took place on 5 September 2022, Mr. Kabund's lawyers demanded that the said decision be implemented before proceeding with the trial, which was postponed at their request. On 12 September 2022, the date of the adjournment, Mr. Kabund did not attend the hearing for medical reasons. His lawyers reported that Mr. Kabund's health had deteriorated. The case was adjourned to 17 October 2022.

At the hearing on 14 November 2022, Mr. Kabund's lawyers raised an objection of unconstitutionality concerning the number of offences brought against him. While the National Assembly reportedly authorized proceedings against the member of parliament for only five offences, the Public Prosecutor prosecuted Mr. Kabund for 12 violations. Following the rejection of this objection by the Court of Cassation, Mr. Kabund's lawyers filed a complaint with the Constitutional Court. The proceedings were therefore suspended until 27 April 2023, when the Constitutional Court rejected Mr. Kabund's complaint on the grounds that it was admissible but unfounded and referred the case back to the Court of Cassation.

On 13 September 2023, the Court of Cassation sentenced Mr. Kabund to seven years' imprisonment for "defamation against the Head of State" and "spreading false rumours". Mr. Kabund's lawyers stressed that this sentence was unjust and excessive, adding that they had no other means of appeal due to the lack of any reform with respect to judicial proceedings applicable to members of parliament allowing the possibility of appeal.

At a hearing with the Committee on the Human Rights of Parliamentarians at the 147th IPU Assembly in October 2023, the Congolese delegation led by the First Deputy Speaker of the National Assembly stated that the National Assembly had followed the required procedure to protect the member of parliament's rights of defence, enabling him to continue to enjoy his immunities during the judicial investigation phase. At the end of this investigation, the Public Prosecutor's Office found that the offences committed by Mr. Kabund were sufficiently serious to require the lifting of his parliamentary immunity in order to prosecute him. However, before lifting his immunity, the Bureau of the National Assembly reportedly invited Mr. Kabund to meet with its members in the presence of a lawyer, an invitation he allegedly declined on two occasions. Instead, Mr. Kabund is said to have asked the Bureau to stay the proceedings against him, which the Bureau was unable to accommodate, considering that this request fell outside its remit. The President of the Bureau of the National Assembly therefore referred the matter to the plenary, which decided to lift Mr. Kabund's parliamentary immunity.

Asked about the severity of the sentence handed down against Mr. Kabund simply for making remarks, the First Deputy Speaker pointed out that, under Congolese law, judges have the discretionary power to impose sentences ranging from one to 10 years' imprisonment for similar offences. Thus, although the sentence handed down against Mr. Kabund appears severe, it remains within the limits of the law. Furthermore, the delegation pointed out that the National Assembly could not interfere with the Congolese justice system, in accordance with Article 149 of the Constitution, which enshrines the independence of the judiciary. The Congolese authorities nevertheless stressed the importance they attach to the right to freedom of expression, which should not be used to infringe the Constitution.

On 20 December 2023, the Democratic Republic of the Congo held general elections against a background of disruption, malfunctioning, violence and accusations of attempted fraud. A number of voices among the opposition and observers condemned the chaotic legislative elections, the outcome of which would only inflame the political tensions in the country. Mr. Félix Tshisekedi was reelected President of the Republic and his political party won the majority of seats in the National Assembly.

During the 149th IPU Assembly, the Committee on the Human Rights of Parliamentarians met with the Congolese delegation and discussed Mr. Kabund's case. The delegation underlined that article 107 of the Congolese Constitution established the principle of absolute immunity for parliamentarians in the context of the exercise of their duties, and that this immunity was absolute under the provisions of the said article. Nevertheless, according to the delegation, the remarks for which Mr. Kabund was tried and sentenced were not made in the context of the exercise of his parliamentary duties. The delegation stated that in his speech, Mr. Kabund had insulted the honour of the Head of State on the basis of unfounded accusations. As a result, he had been prosecuted, his immunity had been lifted and he had been sentenced in accordance with the Congolese legislation in force.

Regarding the request for a Committee mission to the Democratic Republic of the Congo, the delegation stated that the mission would be welcome and that the National Assembly was available to facilitate the organization of the mission in the near future.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Congolese delegation for the information provided at the 149th IPU Assembly, in particular its willingness to facilitate and welcome a Committee mission to the Democratic Republic of the Congo in the near future;
2. *Remains concerned* at the severity of Mr. Kabund's sentence of seven years' imprisonment for making critical remarks against the Head of State and government policy; *considers* that, even if these remarks were provocative in nature, they were part of the exercise of his fundamental right to freedom of expression and were in no way accompanied by hostile acts aimed at disrupting public order;
3. *Recalls* that the Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights, which recognizes the right to security of person and the right to freedom of opinion, expression and assembly; consequently *stresses* that Mr. Kabund's sentence is not in line with the international commitments of the Democratic Republic of the Congo in the area of freedom of expression; *calls on* the National Assembly, once again, to protect its members' right to freedom of expression, regardless of their political affiliation, by taking all necessary measures to strengthen protection of this fundamental right, including by repealing Ordinance Law No. 300 of 16 December 1963 on offences constituting defamation against the Head of State or by bringing it into line with international human rights standards, as soon as possible, in order to prevent the recurrence of such cases; and *wishes* to be kept informed in this regard;
4. *Deplores* the absence of the possibility of appeal in legal proceedings against members of parliament of the Democratic Republic of the Congo; *recalls* that the possibility of appeal constitutes one of the main elements of due process; and *calls on* the Parliament of the Democratic Republic of the Congo to create such a mechanism, so that parliamentarians' right to a defence in legal proceedings is protected in the same way as that of other citizens of the Democratic Republic of the Congo;
5. *Is pleased* at the National Assembly's willingness to facilitate and welcome a mission of the Committee on the Human Rights of Parliamentarians to the DRC under the best possible conditions; *hopes* that this mission will take place in the near future and that it will include meetings with the relevant Congolese authorities, in particular the Speaker of the National Assembly, the Prosecutor General and the Minister of Justice, as well as Mr. Kabund in detention and relevant third parties, in order to promote a satisfactory settlement of this case;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, 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.



# Democratic Republic of the Congo



Chérubin Okende Senga © Complainant

## COD-158 – Chérubin Okende Senga

### Alleged human rights violations

- ✓ Murder
- ✓ Abduction

#### A. Summary of the case

On 13 July 2023, Mr. Chérubin Okende – opposition member of parliament, former Minister of Transport and spokesperson for the *Ensemble pour la République* (Together for the Republic), a political party led by opposition candidate in the presidential elections Moïse Katumbi – was found murdered, according to the complainants, shot in the head, inside his vehicle which had been abandoned on a road near Kinshasa city centre. Mr. Okende had reportedly disappeared the day before he was killed.

The same day, the Public Prosecutor's Office at Kinshasa-Gombe High Court, on the instruction of the Prosecutor General at the Court of Cassation, opened a murder investigation against persons unknown.

Mr. Chérubin Okende's death occurred within a particularly difficult context for political opponents in the Democratic Republic of the Congo (DRC), where the democratic space is shrinking and violations are committed against those speaking out against the incumbent regime. His disappearance has raised many questions relating to safety in the DRC, particularly the safety of political opponents.

Shortly after Mr. Okende's death, the contents of a confidential report attributed to the National Intelligence Agency (ANR) were published by the RFI and Jeune Afrique media on 31 August 2023. According to the report, military intelligence was responsible for Mr. Okende's death. The journalist who accessed this report was imprisoned in September 2023 and then convicted of disseminating false information. He was released in March 2024 after serving his six-month prison sentence. The Congolese authorities have stated that the report was wrongly attributed to the ANR and that its contents were totally false.

At a hearing before the Committee on the Human Rights of Parliamentarians at the 147th IPU Assembly in October 2023, the Congolese delegation said that the Speaker of the National Assembly had expressed his deep concern at the murder of Mr. Okende, in his speech marking the opening of the autumn session in September 2023. A number of members of parliament, including the First

#### Case COD-158

**Democratic Republic of the Congo:**  
Parliament affiliated to the IPU

**Victim:** An opposition member of parliament

**Qualified complainant(s):** Section 11(a) of the Committee Procedure (Annex 1)

**Submission of the complaint:** July 2023

**Recent IPU decision:** February 2024

**Committee mission(s):** - - -

**Recent Committee hearings:** Hearing with the DRC delegation at the 149th IPU Assembly in Luanda (October 2024)

#### Recent follow-up:

- Communication from the authorities: - - -
- Communication from the complainant: March 2024
- Communications to the authorities: letter to the Speaker of the National Assembly (July and September 2024)
- Communication to the complainant: September 2024

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Deputy Speaker, had visited Mr. Okende's family to support them, and the National Assembly continued to provide financial support to his family and to the group of lawyers in charge of his case.

The delegation also confirmed that the Public Prosecutor had opened a judicial investigation, seeking the assistance of international experts from Belgium, South Africa and the United Nations Organization Stabilization Mission in the DRC (MONUSCO), who agreed to collaborate with the Congolese authorities in this case. The delegation said that the report drawn up at the end of this judicial investigation would be published very shortly and that the National Assembly would send it to the Committee as soon as it was available. Despite the assurances from the Congolese authorities at their hearing, the investigation report has not been made available to the Committee.

On 7 November 2023, Mr. Okende's family lodged a complaint in Belgium against Colonel-Major Christian Ndaywell, head of the Congolese military intelligence, whom they suspect of involvement in the death of the member of parliament. The complaint was lodged as a civil party with a Brussels investigating judge on charges of war crimes. As a Belgian national, Mr. Ndaywell is subject to Belgian justice, which can prosecute him under its universal jurisdiction in criminal matters. The case was referred to the Brussels Public Prosecutor's Office, which notified the federal Public Prosecutor's Office on 14 December 2023. The federal Public Prosecutor's Office is currently considering whether the case can be handled at the federal level.

On 22 January 2024, Mr. Okende's family sent a letter to the DRC's Prosecutor General requesting a report within 72 hours on the progress of the case and the findings of the autopsy performed on the member of parliament's remains. Six months after his death, the autopsy report had still not been made available to the complainants or the lawyers.

On 29 February 2024, the Public Prosecutor announced that the cause of Mr. Okende's death was suicide, according to the analyses carried out and following the discovery of his personal diary in which he had written that he was "at the end of his tether". The complainants question this information insofar as the suicide theory put forward by the authorities does not correspond to the images of Mr. Okende's body that had been widely circulated on social networks and other media. Mr. Okende's family strongly criticized the authorities' conclusion. In September 2024, the family's lawyer announced that the family had again filed a complaint with the Public Prosecutor asking for the investigation to be reopened. However, it appears that they have not had any response by the Congolese justice to their complaint.

During the 149th IPU Assembly in Geneva, the Committee met with the Congolese delegation to discuss Mr. Okende's case. The delegation stated that in accordance with the Criminal Procedure in the Democratic Republic of the Congo, investigations were secret, but that defendants were given access to investigation and autopsy reports with the prior authorization of the Public Prosecutor's Office. According to the delegation, Mr. Okende's family and lawyers were given access to the two reports in their entirety, as they had brought proceedings in Belgian courts against Colonel Major Christian Ndaywell. The delegation added that the Public Prosecutor's Office had cooperated diligently with Mr. Okende's family, despite the family having refused to cooperate with the Congolese authorities. For greater transparency in this case, the Public Prosecutor's Office allegedly also informed the Bureau of the National Assembly that it had invited the Catholic Church – which had expressed doubts about the investigation report – to discuss the case. This discussion reportedly lasted for more than four hours, in order to clarify a number of elements in the investigation report.

With regard to the Committee's request to obtain the legal investigation report, the delegation stated that the parliamentary authorities could contact the Public Prosecutor's Office and ask for the said reports to be shared with the Committee, stressing that the best way to access these reports was to conduct a mission in the DRC, which the parliamentary authorities were prepared to facilitate and support.

Concerning the evidence according to which Mr. Okende had supposedly committed suicide, the delegation explained that analyses and samples relating to the deceased's car and body had been carried out and that this evidence had been backed up by the conclusions of international experts who had been invited to work with the Congolese Public Prosecutor's Office in the course of the investigation. According to the delegation, Belgium, South Africa and MONUSCO had sent teams who had carried out completely independent investigations. The teams from South Africa and MONUSCO

reportedly concluded that it was indeed a case of suicide, while the Belgian team allegedly expressed doubts that it was a case of murder, without concluding that Mr. Okende had killed himself.

The delegation stressed that there was a considerable discrepancy between the result of the investigation and the way the press had presented the case. Contrary to what was reported by the press, Mr. Okende's body was not "riddled with bullets". The Public Prosecutor's Office had reportedly found a single bullet, which had apparently gone through the MP's head. Some of the information examined by the Public Prosecutor's Office, including statements by the MP's bodyguard and his wife, contained elements that were contradictory and unverifiable.

Lastly, the delegation said it had no knowledge of the request by Okende's family to the prosecutor asking for the investigation to be reopened.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Congolese delegation for the information transmitted at the 149th IPU Assembly, in particular its willingness to facilitate and welcome a Committee mission in the near future;
2. *Deplores once more* the death of opposition member of parliament Mr. Chérubin Okende, while taking into account the information shared by the Congolese delegation, in particular the international cooperation of the Congolese Public Prosecutor's Office with the Belgian, South African and MONUSCO authorities to establish the MP's cause of death;
3. *Stresses* nevertheless that Mr. Okende's family rejected the prosecutor's conclusions that the MP committed suicide, and had brought proceedings in Belgian courts against Colonel Major Christian Ndaywell for his presumed role in Mr. Okende's death; *urges* the Congolese authorities to that end to show greater transparency by sending a copy of the legal investigation report, with all the relevant elements, as well as the conclusions of the international teams, to the National Assembly and to the Committee as soon as possible in order to establish the truth in this case;
4. *Considers* that, given the allegations concerning his death and the doubts that remain about the prosecutor's conclusions concerning the cause of his death, the National Assembly, as the guardian of human rights, could have taken concrete steps to preserve the integrity of parliament by joining Mr. Okende's family in bringing a civil action in order to gain access to the legal investigation report in its entirety;
5. *Is pleased* at the National Assembly's willingness to facilitate and welcome a mission of the Committee on the Human Rights of Parliamentarians to the DRC under the best possible conditions in order to meet the Congolese authorities, in particular the Speaker of the National Assembly, the Prosecutor General and the Minister of Justice, and gain access to the reports of the legal investigation, the autopsy and the international teams who assisted the Congolese Public Prosecutor's Office; *considers* it essential that the delegation also meets with Mr. Okende's family and lawyers and relevant third parties; and *hopes* that the National Assembly will facilitate all these meetings during the Committee's mission;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, 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.

## Democratic Republic of the Congo



An official from the Independent National Electoral Commission (CENI) registers voters at a polling station at the Institut Ndahura in Goma on 21 December 2023. ALEXIS HUGUET / AFP

- COD-159 - Claude Nyamugabo Bazibuhe
- COD-160 - Aruna Ndarabu Amurani
- COD-161 - Frederic Fikiri Asani
- COD-162 - Jean-Marie Kabengela Ilunga
- COD-163 - Michel Omba Taluhata
- COD-164 - Didier Nasibu Ibrahim
- COD-165 - Pascal Manshimba
- COD-166 - Jocelyne Mupeka Kindundu (Ms.)
- COD-167 - Samy Badibanga Ntita
- COD-168 - Nazem Nazembe
- COD-169 - Matthieu Kitanga Luanga
- COD-170 - José Ngbanyo Mbunga Detato
- COD-171 - Yannick Lumbu Ngoy
- COD-172 - Prosper Mastaki Kuliva
- COD-173 - Gilbert Tutu Tedeza Kango
- COD-174 - Freddy Tshibangu Kabula
- COD-175 - Magguy Kiala Bolenga Boley (Ms.)
- COD-176 - Robert Koloba Denge

### Alleged human rights violations

- ✓ Lack of fair trial proceedings
- ✓ Right of appeal
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Other acts obstructing the exercise of the parliamentary mandate

### A. Summary of the case

On 20 December 2023, the Democratic Republic of the Congo (DRC) held general elections against a background of disruption, malfunctioning, violence and accusations of attempted fraud. A number of voices among the opposition and observers condemned the chaotic legislative elections, the outcome of which would only inflame the political tensions in the country.

### Case COD-COLL-05

**Democratic Republic of the Congo:**  
Parliament affiliated to the IPU

**Victims:** 18 members of parliament, 16 from the majority, one from the opposition and one independent (16 men and 2 women)

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

**Submission of the complaint:** May, June, July and August 2024

**Recent IPU decision(s):** - - -

**Recent IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with the DRC delegation to the 149th IPU Assembly in Geneva (October 2024)

### Recent follow-up:

- Communication from the authorities: - - -
- Communication from the complainant: October 2024
- Communications to the authorities: October 2024
- Communication to the complainant: October 2024

On 13 January 2024, the Independent National Electoral Commission (CENI) published the provisional results of the legislative elections. Prior to the publication of these results, the CENI had issued a decision invalidating 82 candidacies for electoral fraud and other unlawful acts. Following the announcement of the provisional results and in view of the numerous incidents that occurred during the elections, more than 1,000 appeals were lodged with the Constitutional Court to rule on the electoral dispute.

It is against this background that this collective complaint is being filed, which includes the case of 15 members of parliament who are among a group of members who were not declared elected by the CENI on 13 January 2024. Following appeals lodged with the Constitutional Court, the latter validated their election in its ruling of 12 March 2024. The National Assembly was notified of their final election, and the 15 members of parliament were able to take their seats in the Assembly to exercise their parliamentary mandate. However, on 22 April 2024, the same Constitutional Court that had ruled on the final election of these members of parliament handed down a new ruling following so-called "rectification of material error" proceedings, which took place on 15 April 2024 and during which the complainants were neither informed of the appeals lodged, nor invited to a hearing. In this ruling of 22 April 2024, the Court invalidated the mandate of the 15 members of parliament in favour of other individuals, some of whom had not even been candidates in the legislative elections. The Court overturned its decision, which is supposedly not subject to appeal under Article 168 of the Constitution and Article 74(2) of the Electoral Law amended on 29 June 2022. In the operative part of this new ruling, the Court fails to explain how it reached a conclusion that was opposite to the one it had reached in March 2024.

Moreover, according to the complainants, the ruling of 22 April 2024 was handed down outside the two-month statutory period allowed for the Court to rule on electoral disputes. According to Article 74 of Law No. 22/029 of 29 June 2022, "the time limit for examining disputes arising from legislative, provincial, urban, communal and local elections is two months from the date of referral to the competent courts". Article 74 quinquies of the same law stipulates that "a material error has no effect on the decision, except in the case of a proven inaccuracy in the figures mentioned in the contested ruling or a transcription error". The law of 29 June 2022 was adopted by the National Assembly in order to remedy the electoral disputes that arose during the 2019 legislative elections. However, despite the proactive measures taken by the Congolese legislature, the Constitutional Court appears to have transgressed this law.

In addition to the Constitutional Court's ruling of 22 April 2024, which was deemed unfair by the complainants, the latter have also raised irregularities in the functioning of the said court. Among the nine members of the Constitutional Court appointed on 7 July 2014 for a non-renewable nine-year term and sworn in on 4 April 2015, two of them, judges Corneille Wasenda and Jean Pierre Mavungu, reportedly continued to sit even though their term of office ended on 4 April 2024, while judge Norbert Nkulu is said to be unavailable and no longer sitting. According to Article 6 of Organic Law No. 13/026 of 15 October 2013 on the organization and functioning of the Constitutional Court, "the term of office of the members of the Court is nine years. It is not renewable." Similarly, Article 158(3) of the Constitution states that "the non-renewable term of office of the members of the Constitutional Court is nine years". Thus, according to the complainants, the procedure followed, which led to the adoption of the aforementioned ruling in April 2024, was also contrary to the law, given that the terms of office of two of its judges had expired.

This complaint also concerns the situation of Ms. Magguy Kiala Bolenga Boley, whose candidacy was reportedly rejected by the CENI in favour of a male candidate belonging to the majority in her single-seat constituency, even though she had obtained more votes than him. Ms. Boley is said to have lodged two appeals with the Constitutional Court, and although the transcript of the voting results attest to her victory, the Court declared her applications admissible but unfounded. Mr. Pascal Manshimba and Mr. Robert Koloba are another case in point. They were declared elected by the CENI, but their election was invalidated by the Constitutional Court in favour of another candidate from the majority. In its ruling of 12 March 2024, the Court accused Mr. Manshimba of electoral fraud, an allegation that he has consistently denied. As for Mr. Koloba, he was invalidated following a petition to contest that was allegedly not brought to his attention. His election was invalidated by the same court ruling of 12 March 2024, in favour of another candidate whose list had obtained more votes.

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At the 149th IPU Assembly, the Committee was able to exchange views with the Congolese parliamentary authorities and the complainants involved in this case. The delegation pointed out that, in the context of electoral disputes, Constitutional Court rulings could be overturned in the event of material errors, and that this was the case of the second court ruling adopted in April 2024. Due to the other cases in the DRC on the agenda and examined by the Committee during this session, including the cases of Mr. Chérubin Okende and Mr. Jean-Marc Kabund, the Committee was unable to discuss this complaint further with the Congolese delegation. Nevertheless, the National Assembly has been invited by the Committee to provide information in writing on this complaint since it was received by the Committee in May 2024, but the parliamentary authorities have failed to send a reply in this regard.

The delegation reiterated the openness of the parliamentary authorities to facilitating and hosting a mission by the Committee on the Human Rights of Parliamentarians in connection with several cases examined by it.

As for its meeting with the complainants, the Committee noted that the former had exhausted all possible remedies in the DRC. The complainants also stated that when the Constitutional Court had validated their mandate in March 2024, they had been sworn in before the National Assembly, which had also declared them elected, and they had begun to effectively exercise their parliamentary mandate. Furthermore, when the Court invalidated them in April 2024, the National Assembly immediately implemented this ruling by stopping their emoluments, but without adopting a decision ending to their parliamentary mandate. The members of parliament therefore consider that their mandate is still valid, since no decision has been taken by the National Assembly to remove them from office.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint was declared admissible by the Committee on the Human Rights of Parliamentarians on the grounds that: (i) it was submitted in due form by qualified complainants under section I.1.(a) and (c) 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); (ii) it concerns, on the one hand, 16 members of parliament not declared elected by the CENI, 15 of whom were validated by the Constitutional Court and, on the other hand, two members of parliament declared elected by the CENI but whose election was invalidated by the Constitutional Court in March 2024; and (iii) that it concerns allegations of lack of fair trial proceedings, right of appeal, arbitrary invalidation of the election of a parliamentarian, and other acts obstructing the exercise of the parliamentary mandate, which are allegations that fall within the Committee's mandate.
2. *Thanks* the Congolese delegation for the information provided at the 149th IPU Assembly;
3. *Deeply regrets* the repetitive nature of complaints of this kind before the Committee concerning electoral disputes, a recurring problem in the DRC and one that has been highlighted to the Congolese authorities for a number of years; and *recalls in this regard* that similar challenges marred the 2006, 2011 and 2018 elections and that several members of parliament were invalidated in the same circumstances following rulings by the Constitutional Court rectifying material error;
4. *Stresses* that Constitutional Court rulings rectifying material errors cannot call into question *res judicata*; and fails to understand how the second Constitutional Court ruling adopted on 22 April 2024, which appears to have been adopted outside the legal time limit of two months under Article 74 of Law No. 22/029 of 29 June 2022, was able to amend the list of members of parliament initially validated by the same court a few weeks earlier; and *wishes* to receive

further clarification from the competent authorities on this point in particular, as well as on the composition and functioning of the Constitutional Court;

5. *Regrets* that the initiative taken by the Congolese legislature in adopting the law of 29 June 2022 and amending Article 74 quinquies thereof, which stipulates that the rulings of the Constitutional Court are not subject to appeal, has not been respected; *calls on* the authorities to ensure consistency and transparency in the application of the laws adopted and to carry out appropriate legislative and constitutional reforms to put an end to the recurrence of such violations and improve the mechanisms for settling electoral disputes; and *reaffirms* the IPU's willingness to provide technical assistance to the Parliament of the DRC to this end;
6. *Welcomes* the willingness of the National Assembly to facilitate and host a mission of the Committee on the Human Rights of Parliamentarians to the DRC under the best possible conditions; and *hopes* that this mission will take place in the near future and that it will include meetings with the relevant Congolese authorities, in particular the President of the National Assembly, the Public Prosecutor and the President of the Constitutional Court, as well as the invalidated members of parliament and third parties concerned, in order to promote a satisfactory settlement of this case;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining the case and to report back to it in due course.

## Eswatini



Members of the Royal Eswatini Police Service (REPS) monitor affiliates of the Trade Union Congress of Eswatini (TUCOSWA) as they sing political slogans in central Manzini, on 28 October 2021 during a pro-democracy protest. Michele Spatari - AFP

SWZ-02 – Mduduzi Bacede Mabuza  
SWZ-03 – Mthandeni Dube  
SWZ-04 – Mduduzi Gawuzela Simelane

### Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

### A. Summary of the case

Parliamentarians Mr. Mduduzi Bacede Mabuza and Mr. Mthandeni Dube were arrested on 25 July 2021. A third parliamentarian, Mr. Mduduzi Simelane, fled the country before an arrest warrant, which still remains valid, could be implemented. Mr. Mabuza and Mr. Dube were charged with the contravention of section 5(1), read in conjunction with section (2)(2)(a)-(d) and (i) of the Suppression of Terrorism Act 2008 (as amended), two alternative counts under the Sedition and Subversive Activities Act of 1938, and two counts of murder. The Accused No. 1 is, in addition, charged with contravention of regulation 4(3)(b), read in conjunction with regulation 4(8) of the Disaster Management Act, No. 1 of 2006. They each entered a plea of not guilty in respect of all charges. The accused made several bail applications, which were all rejected.

The legal action against the parliamentarians was taken in the following context: In May 2021, calls for political reform started circulating on various platforms across Eswatini, with the aforesaid three

### Case SWZ-COLL-01

**Eswatini:** Parliament affiliated to the IPU

**Victims:** Three independent members of parliament

**Qualified complainant:** Section I.1(b) of the Committee Procedure (Annex I)

**Submission of complaint:** January 2022

**Recent IPU decision:** March 2024

**Recent IPU mission:** Trial observation (February 2024; November 2022)

**Recent Committee hearing:** Hearing with the delegation of Eswatini at the 148th IPU Assembly in Geneva (March 2024)

### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Assembly (August 2024)
- Communication from the complainant: November 2023
- Communication to the authorities: Letter to the Speaker of the House of Assembly (September 2024)
- Communication to the complainant: September 2024



parliamentarians also advocating for these changes. To prove that these members of parliament had the mandate from their constituencies to make this call resulted in a series of petitions being delivered to parliament in support of the call for change. Protesters were calling for constitutional and political reforms, lamenting the Government's reported failure to deliver basic services to its citizens, demanding responses to socioeconomic challenges, and invoking alleged ill-treatment by police. Petitions were delivered to various *tinkhundla* centres (constituencies), predominantly by young people, to their members of parliament as an endorsement of the call for constitutional and political reforms. These calls were heightened during protests against alleged "police brutality" following the death of a University of Eswatini law student, Mr. Thabani Nkomonye. On 24 June 2021, the then acting Prime Minister, Deputy Prime Minister, Mr. Themba N. Masuku, issued a ban on the delivery of these petitions, saying that this was "a conscious decision to maintain the rule of law and de-escalate tensions that had turned the exercise into violence and disorder". Protesters continued to deliver petitions in spite of the ban and were blocked by the police. The parliamentary authorities state that numerous acts of violence were reported during the delivery of petitions, which were orchestrated by the protesters in some of the constituencies. This led to the authorities banning the physical delivery of petitions to the constituencies but leaving the door open for the petitions to be sent by e-mail.

In its report released at the very end of June 2021 regarding the events that had occurred earlier that month, the Eswatini Commission on Human Rights and Public Administration (the Commission) – which is Eswatini's national human rights institution – found that human rights violations and abuses had been perpetrated during the unrest.

According to the complainant, the charges against Mr. Mabuza, Mr. Dube and, potentially, Mr. Simelane serve as reprisals and aim to silence them, given that they have been at the forefront of the aforesaid demands for democratic reforms in Eswatini, an absolute monarchy led by King Mswati III for over 30 years, where political parties are not legally recognized. The parliamentary authorities deny that they have been targeted for exercising their freedom of expression.

Mr. Rahim Khan, an attorney and former acting chief magistrate in Botswana, with over 40 years of legal experience, was appointed by the IPU to attend and follow the final trial proceedings against Mr. Mabuza and Mr. Dube, namely those which took place from 8 to 10 and 14 to 16 November and on 13 December 2022.

On 31 January 2023, the defence and the Crown Prosecutor made final submissions in the criminal proceedings against Mr. Mabuza and Mr. Dube, after which the judge in the case reserved judgement. On 1 June 2023, the judge found them guilty of all charges, except for the charge related to the COVID-19 regulations with respect to Mr. Mabuza, and reserved sentencing for a hearing in December 2023. This hearing was subsequently postponed, with new hearings that took place from 20 to 22 February and on 26 March 2024. The IPU trial observer attended all these hearings, which focused on the defence counsel presenting information in support of mitigating the parliamentarians' sentence. According to information provided by the authorities, at the hearing held on 26 March 2024, Mr. Dube and Mr. Mabuza were not ready to proceed and applied for a postponement to 30 April 2024. This application was granted by the court.

In his most recent report, the IPU trial observer, upon reviewing the verdict, stated that "if we examine the statements attributed to them (Mr. Mabuza and Mr. Dube) by the learned judge, a careful analysis in fact does not reflect criminal intent. Throughout the evidence as appears in the record, there is no exhortation on the Swazi public to rise up in insurrection, overthrow the Monarchy and establish a government of the people. In fact, the accused are very deferential towards the Monarchy, almost religiously so. The entire case rests on the response by the accused to the declaration by the government that it was banning the production of petitions and for the appointment of the Prime Minister by election. The incidents of civil unrest occurred on 24 June 2021. It is abundantly clear from the gravamen of the charges, that the accused were no way near the scene of the crime. It is the effect of what they stated that reflects what the State says is the foundation of their criminal conduct: that they encouraged people in their public statements to disobey the lawful appointment of the Prime Minister and in the process encouraged civil disobedience. But, with respect, how can civil disobedience be equated with terrorism and sedition? There was no armed insurrection, no taking up of arms with revolutionary slogans against the State, no intentional destruction of the most visible manifestations of state power. How encouraging people to disobey the government on the issue of denying the filing of petitions automatically led to arrests for terrorism without showing a direct link between rhetoric and causation is difficult to appreciate".

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On 15 July 2024, the judge in the case sentenced Mr. Mabuza and Mr. Dube to prison terms of 25 and 18 years, respectively. They have appealed the sentence, and the appeal is pending.

According to the complainant, on 22 September 2022, the two detained parliamentarians were assaulted by prison guards who entered their cells. It is alleged that on 29 September 2023, Mr. Mabuza was again beaten by a correctional services officer. At the hearing held with the Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly, the Eswatini delegation provided an undated document containing information on an internal inquiry that showed that there was never an assault on Mr. Mabuza and Mr. Dube.

The IPU has expressed several times the wish to send a delegation from the Committee on the Human Rights of Parliamentarians to Eswatini. However, this mission could not take place in the absence of cooperation from the Eswatini authorities. In his letter of 5 August 2024, the Speaker stated that the rationale for the mission had now been overtaken by events.

On the night of 21 January 2023, Eswatini human rights defender and lawyer Mr. Thulani Maseko – a lawyer previously representing both parliamentarians – was killed. United Nations and African Union experts immediately condemned the killing as “abhorrent” and demanded an impartial investigation. Mr. Maseko was a member of Lawyers for Human Rights Swaziland and chairperson of the Multi-Stakeholder Forum, a coalition of political opposition groups and civil society activists calling for constitutional reform in Eswatini. His murder remains unresolved to this day. At the hearing held with the Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly (March 2024), the Eswatini delegation stated that an investigation was ongoing but that further information was not available.

Since the protests broke out in Eswatini in 2021, the SADC and other international partners have strongly encouraged the Eswatini authorities to conduct a meaningful, substantive and inclusive national dialogue to discuss options for democratic and institutional reforms. At the hearing held with the Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly, the Eswatini delegation stated that the national dialogue had since been concluded and had been very successful and that the relevant ministries were now tasked with adopting the corresponding implementation plans.

At the same hearing, the Eswatini delegation stated that the IPU trial observer had not been impartial, that their national justice system was intact and proper, and that the judge who ruled in the case was very experienced and had taken all relevant facts into account. The delegation said that Mr. Mabuza and Mr. Dube have the right to appeal the verdict and said that the charges against them concerned events that took place when Eswatini was very much in lockdown due to the COVID-19 pandemic regulations being in place and that in the course of the events in 2021 the lives of more than 30 people were lost. The delegation also said that if, Mr. Mabuza and Mr. Dube had been genuinely interested in pushing for the direct election of the Prime Minister, they should have chosen to achieve this outcome through their work in parliament, rather than by interacting with citizens outside of parliament and inciting them to violence.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of the House of Assembly for his letter, his observations and spirit of cooperation; *appreciates* the written communications that the parliamentary authorities have sent to the IPU throughout the treatment of this case; and *points out* that these communications have always been acknowledged and have always received a response;

2. *Is deeply concerned* that Mr. Mabuza and Mr. Dube have been sentenced to hefty prison terms as a result of a trial that the IPU, through its trial observer, has closely followed and reported on; *considers* that the Speaker's latest letter does not dispel its concerns about the trial's shortcomings, as identified in the trial observer's reports; *fails to understand*, in light of the written judgment that the Committee has carefully reviewed, how the two men could have been convicted and sentenced on the serious charges they faced given that they were only publicly expressing their opinion on alleged incidents of corruption, the need to change the constitution and the importance of Eswatini citizens being allowed to convey their views to their representatives in parliament; *considers* in this regard that the two parliamentarians felt frustration at the lack of willingness and freedom within parliament, largely due to the way it was set up, to make progress on these questions; *considers* also that, while acknowledging that some of the protests in the middle of 2021 turned violent, at no point did Mr. Mabuza or Mr. Dube advocate for the use of violence or were themselves involved in any violent acts; *decides* to send a trial observer to follow and report on the appeal proceedings;
3. *Reaffirms its belief* that it is crucial that a delegation of the IPU Committee on the Human Rights of Parliamentarians can meet with Mr. Mabuza and Mr. Dube in detention; and *requests* the Secretary General to continue to engage with the parliamentary authorities of Eswatini to dispatch this mission as soon as possible;
4. *Reiterates* the IPU's readiness to provide support for ongoing efforts to implement the recommendations that arose from the national dialogue; and *wishes* to receive more information on these recommendations and their state of implementation, including in the area of political and democratic reforms;
5. *Requests* the Secretary General to convey this decision to the Speaker of the House of Assembly, the complainant and any third party likely to be in a position to supply relevant information, in particular the Southern African Development Community, the African Union and the Parliament of South Africa;
6. *Requests* the Committee to continue examining the case and to report back to it in due course.

## Guinea-Bissau



© Domingos Simoes Pereira, February 24, 2020 Martin BUREAU / AFP

GNB-13 - Marciano Indi  
GNB-14 - Domingos Simões Pereira  
GNB-15 - Angelo Regalla  
GNB-16 - Banjai Bamba

### Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of expression and opinion
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity

### A. Summary of the case

The present case concerns the situation of four members of the People's National Assembly of Guinea-Bissau, including its Speaker, Mr. Domingos Simões Pereira, Mr. Marciano Indi, Mr. Agnelo Regalla and Mr. Bamba Banjai, who have suffered human rights violations since 2020 for publicly criticizing the President of the Republic, Mr. Umaro Sissoco Embaló, and the Prime Minister, Mr. Nuno Gomes Nabiam.

On 23 May 2020, Mr. Marciano Indi, leader of the parliamentary group the United People's Alliance-Democratic Party of Guinea-Bissau (Alliance du Peuple Uni-Parti Démocratique de Guinée Bissau) (APU-PDGB), was abducted by individuals whom he identified as belonging to the National Guard, a security force that is under the authority and political auspices of the Ministry of the Interior. Shortly before his abduction, Mr. Indi had questioned the President's policy and calls to replace the opposition head of government.

### Case GNB-COLL-01

**Guinea-Bissau:** Parliament affiliated to the IPU

**Victim(s):** Four opposition members of parliament

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

**Submission of complaint(s):** March 2024

**Recent IPU decision(s):** March 2024

**IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with the delegation of Guinea-Bissau during the 149th IPU Assembly in Geneva (October 2024)

### Recent follow-up:

- Communication(s) from the authorities: April 2024
- Communication from the complainant: September 2024
- Communication to the authorities: Letter to the Minister Director of Cabinet (April, September 2024)
- Communication to the complainant: September 2024

Mr. Indi was beaten up, insulted and ill-treated by his kidnappers. The member of parliament nevertheless attempted to negotiate his release after overhearing a telephone conversation between one of the kidnappers and the Minister of the Interior. Mr. Indi was taken to the Ministry of the Interior, where he was placed in a cell for a few hours. According to the allegations, Mr. Indi had the opportunity to speak to the Minister of the Interior, who allegedly told him that everything would be resolved and begged him not to divulge anything to the media about what had happened. The member of parliament was then taken by his kidnappers to the house of the former Speaker of Parliament, where he was released. He was escorted back to his home by the former Speaker of Parliament. Having heard the telephone conversations between his kidnappers and the Minister of the Interior, as well as those between the former Speaker of Parliament and the President of the Republic, Mr. Indi understood that his kidnapping had been ordered by President Embaló and that he would receive no compensation for the harm he had suffered.

Regarding the situation of Mr. Agnelo Regalla, the member of parliament was shot outside his home on 7 May 2022 by uniformed armed men. Seriously injured, he was evacuated to Portugal for specialist medical treatment. The incident occurred the day after a press conference held at the headquarters of the African Party for the Independence of Guinea and Cape Verde (PAIGC), during which President Embaló's regime had been heavily criticized. The investigation opened by the judicial police was never completed.

On 3 February 2024, Mr. Bamba Banjai, a member of the parliamentary group MADEM-G15, to which the President of the Republic belongs, was arrested by the Secretary of State for Public Order at Bissau airport while awaiting the arrival of his party's leader. According to the complainant, the Secretary of State for Public Order was joined by several heavily armed police officers who took them to the Ministry of the Interior, where they were questioned and detained until 9 p.m. On 27 February 2024, after spending a few days in hiding due to serious death threats and attempts to re-arrest him, Mr. Banjai reportedly went to the Ministry of the Interior with his lawyer. On arrival, Mr. Banjai was allegedly subjected to intense interrogation for criticizing the regime during a press conference organized by the leaders of his political party. At 9 p.m., Mr. Banjai was allegedly taken to the Presidential Palace and continued to be questioned by President Embaló, who then ordered his release.

Concerning the Speaker of Parliament, Mr. Domingos Simões Pereira was arbitrarily deprived of his parliamentary mandate following the decision of the President of the Republic on 4 December 2023 ordering the dissolution of parliament following the legislative elections of 4 June 2023 on the grounds of an alleged coup d'état, the existence of which the opposition denies. According to the complainant, President Embaló's decision was prompted by the intervention of members of the National Guard to release two opposition ministers while they were being questioned by the judicial police. Clashes broke out between elements of the National Guard and the Presidential Guard special forces, resulting in at least two deaths. President Embaló reportedly decided to dissolve parliament after the security forces intervened on behalf of the two opposition ministers.

Following the dissolution of parliament, the military reportedly used excessive force to prevent members of parliament from accessing the National Assembly's premises and holding their meetings. The operating budget of the People's National Assembly, approved in plenary session, was frozen on the orders of President Embaló. According to the complainant, President Embaló's decision to dissolve parliament is contrary to the Constitution, which prohibits the dissolution of parliament within 12 months of its inauguration (article 94 of the Constitution). The complainant accuses the President of the Republic of seeking to disrupt the functioning of parliament and change its current composition, which is dominated by the opposition.

During a hearing before the Committee on the Human Rights of Parliamentarians at the 148th IPU Assembly in March 2024, the parliamentary delegation of Guinea-Bissau, led by the Speaker of the People's National Assembly, thanked the Committee for its interest and for its invitation to a hearing. The Speaker of Parliament acknowledged the many difficulties his country had faced in achieving political stability. Regarding the cases under examination by the Committee, the Speaker of Parliament explained that they were related to the November 2019 presidential elections, which had resulted in the disputed victory of President Embaló. After being declared the winner by the Electoral Commission in February 2020, Mr. Embaló had ended the PAIGC-led government by appointing a new prime minister. In October 2021, a coup d'état had reportedly been foiled, as well as a second

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attempt in February 2022. In May 2022, the President had decided to dissolve the Parliament resulting from the March 2019 legislative elections and scheduled the legislative elections for December 2022. In the end, these were not held until June 2023.

The delegation of Guinea-Bissau explained that the legislative elections in June 2023 represented a glimmer of hope and an opportunity for political parties to end to their differences. The PAIGC-led opposition came first with 54 of the 102 seats in Parliament. According to the delegation, despite the different political opinions, parliament was functioning and an understanding seemed to be developing between the opposition and the majority, heralding a new era of political stability in the country. The delegation therefore questioned the reasons behind President Embaló's dissolution of Parliament. In addition, the delegation pointed out that, from a constitutional point of view, the dissolution contravenes article 94 of the Constitution and the relevant rules on the matter because, if the President had valid reasons for dissolving parliament, he would have to present them to parliament and its standing committee, which would have to examine them. These provisions had not been respected.

According to the delegation, the political instability and arbitrary measures taken by President Embaló, including the dissolution of Parliament, the dismissal of the President of the Supreme Court and several of its members, and the lack of independence of the Prosecutor General, facilitate human rights violations in Guinea-Bissau. Anyone who dares to criticize the President may find themselves kidnapped, beaten up and detained before being released without justice being done. The delegation reiterated that the opposition of all the political parties and public opinion to the dissolution of Parliament was not a choice but a necessity, given that the absence of a parliament and of all the institutions guaranteeing the rule of law in Guinea-Bissau could lead to a disastrous situation in the country.

The parliamentary delegation said that the only way out of the crisis was for parliamentary functions to resume and for there to be a gradual return to the rule of law. On the eve of its hearing, the delegation had received information that the President of the Republic might be on the verge of reaching such a conclusion, as the Prime Minister had reportedly announced the withdrawal of military forces from Parliament.

In their letter of 3 April 2024, the executive authorities called into question three elements: (i) the unconstitutional nature of the dissolution of the Assembly could only be judged by the Supreme Court of Justice instead of the Constitutional Court; (ii) the events that led to the dissolution of parliament were the result of the denunciation by the members of parliament of a substantial payment to contractors; and (iii) the decision by the Speaker of the Assembly to order the release of the two members of the government questioned in connection with this payment and his plan to release other detainees of the putsch of 1 February 2022. In the same letter of 3 April 2024, the executive authorities also denounced Mr. Pereira's mobilization of several members of his coalition to cause disorder in front of the Assembly building. Finally, as regards the human rights violations of the deputies included in this case, the executive authorities did not provide any relevant information.

On 31 July 2024, the Public Prosecutor issued a public notice ordering Mr. Pereira to report to his office by 15 August 2024 in connection with a corruption case dating back to 2015. The Prosecutor accused Mr. Pereira of fleeing from justice and the National Assembly of not lifting his parliamentary immunity.

After several months in exile, Mr. Pereira returned to Guinea-Bissau where he convened an extraordinary session with the parliamentary parties on 20 September 2024 under Article 48 of Law 1/2010 to examine and deliberate on several issues approved by the Bureau. During this meeting, the Standing Committee reiterated that the dissolution of the Assembly was unconstitutional and took a number of decisions aimed at strengthening the prerogatives of the Assembly, promoting the independence of the judiciary and improving dialogue with the President of the Republic. Following this meeting, the military forces reedly again occupied the Assembly premises, denying access to Mr. Pereira and all the MPs who took part in the sitting on 20 September. Mr. Pereira was accused of a coup d'état and was replaced by the Second Deputy Speaker of the Assembly, who is close to President Embaló.

During the 149th IPU Assembly in Geneva, the Speaker of the National Assembly, Mr. Domingos Simoes Pereira was prevented by the customs authorities from leaving Guinea-Bissau to attend the work of the IPU Assembly. A two-person delegation was nevertheless able to represent him and discussed his situation with the Committee, as well as the political context in the country.

According to the delegation, the National Assembly faced institutional challenges that prevented it from playing its role in an effective manner. Both its dissolution – considered unconstitutional by all its MPs – and the lack of independence of the Supreme Court, which is under the control of the President of the Republic, impede the work of the National Assembly, according to the delegation, and contribute to a resurgence of human rights violations against all its MPs, in particular its Speaker. The delegation stated that the violations of the Speaker's freedom of expression and assembly and the undue invalidation of his mandate were compounded by the violation of his free movement, since he was henceforth banned from travelling.

The delegation said that Mr. Pereira had been on the point of boarding a plane destined for Geneva to attend the work of the IPU and represent the Guinea-Bissau Parliament, when an official from the customs authorities informed him that he did not have the right to leave the country. This travel ban was not established in any legal document that could be contested before the courts. This decision sets a new precedent in the country, as it is the first time that the Speaker of the National Assembly has been prevented from travelling, in the absence of a legal ban. The delegation also confirmed that Mr. Pereira had been officially removed from his functions as Speaker of the National Assembly by an official from the Ministry of the Interior, who had assigned this role to the Second Deputy Speaker of the National Assembly.

Furthermore, in the context of the forthcoming legislative elections scheduled in Guinea-Bissau for 24 November 2024, the President of the Republic has reportedly established a committee to ban certain people, including Mr. Pereira and the president of the MADEM party, from participating in future elections. According to the delegation, Mr. Pereira is already disqualified, as he has not received an essential document to validate his candidature. The delegation also expressed doubt that the elections would be held on the scheduled date, in the absence of crucial institutions to guarantee free and fair elections. They said that the Supreme Court did not have a quorum and was under the control of the President of the Republic, and that the national electoral commission was not operational as the National Assembly had not been able to elect its members in 2022 because of the Assembly's first dissolution.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the parliamentary authorities of Guinea-Bissau for the information provided during their meeting with the Committee on the Human Rights of Parliamentarians at the 149th IPU Assembly;
2. *Deplores* the new violations suffered by Mr. Pereira, in particular the violation of his rights to freedom of expression, assembly and movement, the undue invalidation of both his parliamentary mandate and his function as Speaker of the National Assembly, and the blocking of his future candidature in the legislative elections for purely political reasons; *urges* the relevant authorities in Guinea-Bissau to end the abuse inflicted on Mr. Pereira and to refrain from instrumentalizing the justice system with the aim of removing him from political life;
3. *Expresses its concern* regarding future legislative elections in Guinea-Bissau being held in a climate likely to encourage new violations against opposition MPs, in the alleged absence of an independent judiciary capable of protecting the rights of parliamentarians; *calls on* the relevant authorities in the country to take all necessary measures to guarantee the fundamental rights of

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all parliamentarians, including the rights to freedom of expression, assembly and association, in order to guarantee that political debate reflects all opinions, including those that criticize the President of the Republic and governmental policy;

4. *Regrets* the lack of concrete replies from the executive authorities in their letter of 3 April 2024 concerning the abduction of Mr. Indi, the violent attack perpetrated against Mr. Regalla and the arbitrary arrest of Mr. Banjai; *deplores* the continued absence of serious judicial investigations into these various cases and the failure of the Bissau-Guinean justice system to protect the physical integrity of these parliamentarians and to ensure that their rights are respected, including their right to freedom of expression and assembly; and *urges* the relevant authorities in Guinea-Bissau to take all necessary steps to carry out serious investigations into these violations in order to ensure that the perpetrators of these crimes are held responsible;
5. *Remains concerned* at the dissolution of the Parliament of Guinea-Bissau, which has seriously impeded its work, has deprived the citizens of Guinea-Bissau of political representation and continues to affect the individual rights of MPs, including the Speaker Mr. Pereira; *expresses its solidarity once more* with the Parliament of Guinea-Bissau and *hopes* for a rapid return to the rule of law in the country;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, 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.



# Nicaragua



© Wikimedia - Brooklyn Rivera Bryan

NIC-32 – Brooklyn Rivera Bryan  
NIC-33 – Nancy Elizabeth Henríquez James

## Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity

## A. Summary of the case

In April 2023, Mr. Brooklyn Rivera Bryan, a Miskitu indigenous leader, prominent member of the YATAMA organization (*Yapti Tasba Masraka Nanih Aslatakanka*, “Children of Mother Earth United”) and elected member of Nicaragua’s National Assembly, participated in the 22nd session of the United Nations Permanent Forum on Indigenous Issues. According to the complainant, during this event, he denounced the treatment of indigenous peoples and Afro-descendants in Nicaragua. Upon attempting to return to his country on 24 April 2023, the Nicaraguan Government allegedly blocked his entry. After a few days abroad, Mr. Rivera Bryan returned to Nicaragua, where he was reportedly persecuted by the national police. According to the information received, on 29 September 2023, state agents forcibly entered his home, beat him up and arrested him without a warrant. His whereabouts have remained unknown since then. According to the complainant, his family has been denied any information, leading to growing concerns about his health and safety, especially given his pre-existing health conditions, which require specialized medical attention. The complainant also states that Mr. Rivera Bryan’s family faces continued threats, intimidation and some family members have been forced into exile.

### Case NIC-COLL-02

**Nicaragua:** Parliament affiliated to the IPU

**Victim:** Two opposition members of parliament (one male and one female)

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

**Submission of complaint:** April 2024

**Recent IPU decision(s):** - - -

**Recent IPU Mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: September 2024
- Communication to the authorities: Letter to the Speaker of the National Assembly (September 2024)
- Communication to the complainant: September 2024

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Ms. Nancy Elizabeth Henríquez James, also a Miskitu indigenous leader and member of the YATAMA organization, took over Mr. Rivera Bryan's parliamentary seat in April 2023 as his alternate. The complainant alleges that she was arrested by undercover police officers on 1 October 2023. Her whereabouts remained unknown for approximately two months. On 13 December 2023, Ms. Henríquez James was sentenced to eight years in prison during a trial held within the women's prison "La Esperanza", where she was allegedly denied legal representation, an interpreter, and due process. It appears that the conviction comes in response to Ms. Henríquez James having been charged with the crimes of "undermining national integrity" and "spreading fake news to the detriment of the Nicaraguan State and society". Her family has expressed concern for Ms. Henríquez James' health, considering that she suffers from several chronic health conditions that require specialized medical attention.

The complainant claims that what happened to both parliamentarians is a direct consequence of their actions as indigenous leaders in opposition to the current government and their opposition parliamentary work, and that there is no basis for any criminal charges against them. The complainant also reported that, to date, Mr. Rivera Bryan and Ms. Henríquez James have not been the subject of any procedure for the termination of their term of office in parliament. However, both have been removed from the list of members of the National Assembly.

The IPU formally requested information and official comments from the National Assembly regarding this case in April and September 2024. Parliament has not submitted any information to date.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the present complaint was declared admissible by the Committee on the Human Rights of Parliamentarians, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1.(b) 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); (ii) concerns two incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of enforced disappearance; threats, acts of intimidation; arbitrary arrest and detention; inhumane conditions of detention; lack of due process in proceedings against parliamentarians; violation of freedom of opinion and expression; abusive revocation or suspension of the parliamentary mandate; and failure to respect parliamentary immunity, which are allegations that fall within the Committee's mandate;
2. *Regrets* the lack of response from the Nicaraguan parliamentary authorities to the Committee on the Human Rights of Parliamentarians' repeated requests for information and official observations regarding the situation of Mr. Rivera Bryan and Ms. Henríquez James; *recalls* in this regard that, in accordance with its Rules and Practices, the Committee does everything possible to promote dialogue with national authorities, and primarily with parliaments, with a view to reaching a satisfactory settlement in the cases before it; and *encourages* in this regard the National Assembly of Nicaragua to enter into a constructive and continuous dialogue with the Committee in order to ensure a satisfactory and speedy resolution of this case;
3. *Is alarmed* that, on 29 September 2023, state agents reportedly entered Mr. Rivera Bryan's home by force, mistreated him and arrested him without a warrant, that Mr. Rivera Bryan's whereabouts have remained unknown since then and that the Nicaraguan authorities have not provided any official information on the place and conditions of his detention; *considers* that the national authorities have an obligation to spare no effort to shed light on the fate of Mr. Rivera Bryan by means of a thorough investigation, that they should start the search immediately and expeditiously and that the search should continue until his whereabouts have been established with certainty; *stresses*, furthermore, the legitimate right of Mr. Rivera Bryan's relatives to be informed of his fate; and *is deeply concerned* that Mr. Rivera Bryan's arrest appears to be linked to

his parliamentary activities as an opposition member of parliament and indigenous leader, and that it took place after he had raised the issue of the situation of indigenous peoples and Afro-descendants in Nicaragua at the 22nd session of the United Nations Permanent Forum on Indigenous Issues in New York;

4. *Is deeply concerned* about the continued detention of Ms. Henríquez James, given the worrying allegations about her deteriorating health and lack of access to medical care; *recalls* that the State of Nicaragua has a heightened duty of care to take all necessary measures to protect Ms. Henríquez James's life, since by arresting her it has assumed responsibility for her life and physical integrity; *urges*, in this regard, the competent authorities to take all necessary measures to ensure the full enjoyment of Ms. Henríquez James's rights, including the urgent provision of appropriate medical treatment; and *requests* the competent Nicaraguan authorities to keep it informed of any measures taken in this regard;
5. *Expresses concern* at the allegations of serious violations of the right to a fair trial in the legal proceedings against Ms. Henríquez James; and *calls on* the competent authorities to provide official and detailed information on the facts justifying each of the charges brought against Ms. Henríquez James and on the current state of her case;
6. *Stresses* that attacks and threats against the life and security of parliamentarians as well as any reprisals for carrying out their work, if left unpunished, violate, *inter alia*, their rights to life, security and freedom of expression and undermine their ability to exercise their parliamentary mandate, affecting the ability of parliament as an institution to fulfil its role; *considers* that the National Assembly of Nicaragua has a direct responsibility to ensure that every effort is made by all relevant authorities to investigate thoroughly and diligently the many concerns that have emerged in this case and to identify and punish those responsible for the human rights violations allegedly perpetrated against two of its members; and *wishes* to be kept informed of action taken by parliament in this respect;
7. *Is concerned* at the allegation that both Mr. Rivera Bryan and Ms. Henríquez James have been removed from the list of members of the National Assembly without being the subject of any procedure; and *wishes* to receive official information on the steps taken by parliament, if any, to terminate the parliamentary mandate of the two parliamentarians and the legal basis for doing so;
8. *Requests* the Committee to send a delegation to Nicaragua as soon as possible so as to meet with all authorities exercising legislative, executive or judicial powers, as well as the relevant prison authorities and any other institution, civil society organization or individual in a position to provide relevant information in the present case; *tasks* the delegation with visiting Ms. Henríquez James in prison; and *sincerely 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;
9. *Calls on* all national parliaments, IPU Permanent Observers, relevant human rights organizations and the international community in general to take urgent and concrete action to help resolve this case in a manner consistent with human rights values and within the boundaries of the principle of non-interference in domestic affairs;
10. *Requests* the Secretary General to convey this decision to the National Assembly of Nicaragua, the complainant and any third party likely to be in a position to supply relevant information or contribute to the solution of the case;
11. *Requests* the Committee to continue examining the case and to report back to it in due course.

## Pakistan



Police commandos escort Mr. Imran Khan (C) as he arrives at the Islamabad High Court.. Aamir QURESHI / AFP

PAK-26 – Muhammad Azam Khan Swati

PAK-27 – Imran Khan

PAK-28 – Aliya Hamza Malik (Ms.)

PAK-29 – Ejaz Chaudhary

PAK-30 – Kanwal Shauzab (Ms.)

### Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity
- ✓ Other violations: right to privacy
- ✓ Other violations: gender-based discrimination
- ✓ Other violations: right to take part in the conduct of public affairs

### A. Summary of the case

The current case concerns five parliamentarians from the *Pakistan Tehreek-e-Insaf* (PTI) party who, according to the complainant, have been persecuted as a result of their opposition to the military authorities of Pakistan following a vote of no confidence that ousted Mr. Imran Khan's government on 14 April 2022. The complainant reports that, since then, the authorities have interfered with the demonstrations organized by Mr. Khan by arresting thousands of PTI members and banning rallies over vaguely defined security concerns. The complainant reports that protesters were frequently met with a disproportionate use of force, which left Ms. Shauzab with long-term injuries. The complainant reports that Ms. Shauzab's complaints regarding the damage she sustained and the threats to leave politics that followed were not acted upon. The complainant submits that what followed was a

### Case PAK-COLL-01

**Pakistan:** Parliament affiliated to the IPU

**Victims:** Five opposition members of the Parliament of Pakistan (two females and three males)

**Qualified complainant(s):** Section I(1)(c) of the Committee Procedure (Annex I)

**Submission of complaints:** December 2022 and September 2023

**Recent IPU decision:** March 2024

**IPU Mission(s):** - - -

**Recent Committee hearing:** Hearing with a member of the delegation of the Senate of Pakistan to the 147th IPU Assembly (October 2023).

#### Recent follow-up:

- Communication from the authorities: October 2023
- Communication from the complainant: September 2024
- Communication to the authorities: September 2024
- Communication to the complainant: September 2024

campaign of escalating violations against Mr. Khan and PTI MPs who remained loyal to him, violations that remain unpunished to this day.

According to the complainant, on 13 October 2022, Senator Azam Swati was abducted by the Federal Investigation Agency (FIA), tortured and arbitrarily detained following a tweet criticizing the outgoing chief of staff, General Qamar Javed Bajwa. On 26 November 2022, Mr. Swati was arrested by the FIA again hours after posting a tweet criticizing Mr. Bajwa and detained at an undisclosed location, raising fears that he was the victim of enforced disappearance. However, after a campaign to secure his release by a number of parliamentarians, he was freed on bail on 3 January 2023. The bail order contained a warning, however, that should Mr. Swati “repeat the offence” the order would be revoked. A trial observer mandated by the IPU travelled to Islamabad on 23 July 2023 to follow the trial *in absentia* of Mr. Swati and prepared a report based on the information provided by the state attorneys and his lawyer. According to the report, his arrest and detention “may be described as a punishment for his exercise of the rights to freedom of expression and opinion”. The trial observer also concluded that judicial and executive authorities interpret the relevant laws in such a way that “no citizen is allowed to criticize [the] army”. In addition, the report expressed concern at the use of multiple charges for the same occurrence, suggesting that the motive of that practice was to keep him in custody.

On 4 November 2022, Mr. Khan was shot and wounded while leading a peaceful protest. The complainant alleges that the gun attack was one of several assassination attempts on Mr. Khan and reports that these incidents were never properly investigated. The complainant stresses that Mr. Khan’s complaints to the police against General Asim Munir and Director General of Counter Intelligence Faisal Naseer have remained unregistered ever since, despite the intervention of the Supreme Court instructing authorities to do so and to investigate the murder attempt. According to the complainant, following a deadly police raid on Mr. Khan’s residence, his supporters were banned from protesting and the media were banned from mentioning Mr. Khan’s name.

According to the complainant, on 9 May 2023 Mr. Khan was arrested on a charge of misdeclaration of the proceeds from the sale of state gifts, prompting mass protests and unrest. Some demonstrations became the scene of violence, as several state and military facilities were targeted by arsonists amid an internet blackout. The complainant alleges that the violent incidents were staged by the military authorities as part of a false-flag operation to frame Mr. Khan and disintegrate the PTI party. According to the complainant, the authorities were swift in assigning blame to the PTI and unfurled a widespread campaign of violent arrests, killing five PTI activists in the process and detaining over 5,000 people, including Senator Ejaz Chaudhary and Ms. Aliya Hamza Malik, while Ms. Shauzab, Mr. Swati and other PTI MPs went into hiding to avoid further persecution. The complainant adds that dozens of PTI MPs have been intimidated into changing sides, or face charges of sedition or terrorism under draconian laws, whereas all PTI members who left the PTI had all their charges dropped immediately.

According to the complainant, Mr. Khan was released following a Supreme Court ruling that his arrest was illegal, only to be violently arrested again on 5 August 2023. He was then sentenced in the “state gifts case” to three years in prison, was deprived of his seat and was barred from taking part in elections for five years. Since then, Mr. Khan has faced over 180 charges, including leaking state secrets, corruption, treason and organizing violent protests. On 29 August 2023, the Islamabad High Court suspended his conviction and freed him on bail, yet Mr. Khan remained in prison on the basis of a multitude of other charges. Since then, a succession of court orders acquitting and freeing Mr. Khan were handed down, but Mr. Khan remained in maximum security prisons on the basis of new charges. On 31 January 2024, Mr. Khan and his wife were handed a 14-year prison term, a day after another special court had found Mr. Khan guilty of disclosing state secrets, sentenced him to 10 years and removed his political rights days before the general elections were held. According to the complainant, Mr. Khan is being kept in appalling conditions, and has been denied adequate medical assistance and visits from a physician of his choice, raising fears that he is being slowly killed. Since 6 October 2024, Mr. Khan has reportedly been kept in solitary confinement. The complainant also shared concerns regarding the health of Ms. Hamza and Mr. Chaudhary, alleging that they face similar obstructions while they are being held on remand. According to the complainant, their trials are also riddled with violations of due process and excessive delays. Ms. Hamza was eventually released on bail on 7 August 2024.

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During a hearing with the Committee on the Human Rights of Parliamentarians, a member of the Pakistani delegation to the 147th IPU Assembly indicated that PTI parliamentarians could seek redress by requesting that the parliamentary leadership issue production orders to allow detained parliamentarians to take part in parliamentary sessions. However, the complainant later shared that all production orders delivered were ignored and that the parliamentary authorities stopped requesting such production orders altogether in the months that followed, despite repeated calls to continue doing so. The complainant also alleges that the ruling coalition has supported calls to have Mr. Khan tried in military courts and has sought to ban the PTI.

Elections were held in Pakistan on 8 February 2024 after a controversial delay beyond the constitutionally mandated deadline. According to the complainant, the elections were mired in controversy, including a connectivity blackout, accusations of rigging and other instances of arbitrary interference with the voting process, including a ban on the use of the party symbol for the PTI. Nevertheless, the elections resulted in one of the biggest electoral upsets in the history of the country, with over 80 seats going to PTI candidates who had campaigned as independents, ahead of any other party. However, the complainant maintains that none of the parliamentarians in the case were able to take part in elections, as all of them were either detained or in hiding, with the exception of Ms. Shauzab, who faced overwhelming obstacles and threats, as well as an unjustified refusal to accept her election registration papers. In its 27 March 2024 decision, the IPU Governing Council concluded that the rights of the five PTI MPs to take part in the conduct of public affairs had been violated.

According to the complainant, following the elections, the issues of administration of justice in Pakistan came to the fore following the publication of an open letter signed by six of the eight judges of the Islamabad High Court on 25 March 2024, accusing Pakistan's security agency of threatening and intimidating them and their relatives through abductions, acts of torture and secret surveillance in an attempt "to engineer judicial outcomes" in cases before the court, including in cases involving Mr. Imran Khan. The unprecedented letter was addressed to the Supreme Judicial Council and called for "transparent civilian oversight" of the security sector to restore the rule of law. The complainant reports that the letter of protest caused an uproar and was followed by the opening of a commission of inquiry, which is yet to bear fruit due to internal disagreements and reprisals against judges. According to the complainant, in the months that followed, the ruling coalition initiated discussions on constitutional amendments that were widely criticized as attempts to curb judicial independence and to allow for the trial of civilians by military courts.

On 18 June 2024, the United Nations Working Group on Arbitrary Detention found that the detention of Mr. Khan was arbitrary and politically motivated. It noted that his arrest lacked a legal basis and appeared to be aimed at disqualifying him from political office. The Working Group called for his immediate release with compensation and reparations, and called for an investigation into numerous violations of due process during his trial.<sup>1</sup> The call for Mr. Khan's release was echoed by Amnesty International, which decried the weaponization of the legal system in Pakistan.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Regrets that* the delegation of Pakistan to the 149th IPU Assembly cancelled its attendance and was not able to meet with the Committee on the Human Rights of Parliamentarians as intended; and *hopes that* such a meeting can take place in the future;
2. *Acknowledges* that Ms. Aliya Hamza was freed on bail on 7 August as called for in the Council's decision of 27 March 2024; *strongly regrets* that Mr. Chaudhary and Mr. Khan remain in detention, despite repeated calls for their release, and that the authorities have not provided

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<sup>1</sup> [www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session99/a-hrc-wgad-2024-22-pakistan-aev.pdf](http://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session99/a-hrc-wgad-2024-22-pakistan-aev.pdf)

information on their conditions of detention, despite repeated calls to do so; *agrees*, on the basis of all information at its disposal, with the conclusions of the United Nations Working Group on Arbitrary Detention, that Mr. Khan is being arbitrarily detained; *urges* the parliamentary authorities of Pakistan to secure the immediate release of Mr. Khan and Mr. Chaudhary and to ensure that their rights are restored in full and duly protected by the law;

3. *Remains appalled* by the persistent pattern of alleged lack of due process and impunity in cases of parliamentarians in Pakistan; *is particularly shocked* by allegations that such violations are being used to pressure opposition parliamentarians into changing their allegiance and by reports that only those parliamentarians who have yielded to pressure are relieved from arbitrary actions against them; and *considers* in this regard that parliament has a vested interest and a duty to ensure that the rights of all its members, irrespective of their views or political allegiance, are fully protected and that no affront to their rights and dignity is left unpunished, irrespective of the rank of those perpetrating the violations; *calls on* the Parliament to establish a commission of enquiry to identify the root causes of the multiple violations in this case;
4. *Is astonished* by the disturbing contents of the open letter by six judges of the Islamabad High Court published on 25 March 2024 and the revelations of threats, intimidation and acts of torture being used against judges by Inter-Services Intelligence agents to influence the outcome of cases, including cases concerning Mr. Khan; *is concerned*, in light of the above, that the parliamentary authorities are not only failing to ensure that the opened commission of inquiry bears fruit five months after this revelation, but are in fact actively pursuing a constitutional amendment that is reported to further curtail judicial independence and accountability for violations committed by military forces, contrary to every decision of the Council in this case and to the international commitments made by Pakistan under international law; *urges* parliament to restore the rule of law by addressing the root causes that led to the present crisis in the most effective and expedient manner, including through legislative action that would protect the independence of the judiciary, restore respect for due process and put an end to the rampant impunity that has been made manifest in this case;
5. *Calls on* the authorities to make use of the expertise of the United Nations special procedures, in particular the Special Rapporteur on the independence of judges and lawyers, to ensure that existing legislation is amended so as to comply with relevant international human rights standards; *suggests* also that the IPU offer assistance to the Pakistani authorities in any such legal review;
6. *Is profoundly concerned* by the increasingly grave allegations conveyed by the complainant in this case, including allegations of torture, inhumane treatment and arbitrary arrest and detention; *is deeply concerned* by information shared by the families of the detained parliamentarians who took part in a hearing with the Committee during its 173rd session in January 2024, including reports of the inhumane conditions of detention of the detained parliamentarians, as well as by the practice of issuing numerous first information reports for the same occurrences with the alleged intention of keeping Mr. Khan and Mr. Chaudhary in prison, even though they had received several judgments ordering their release;
7. *Hopes* to be able to rely on the support of parliament in ensuring that the rights of parliamentarians in this case are protected in full, including their right to a fair trial; and *reiterates its wish* to be kept informed of the dates of the trial and of any other relevant judicial developments in the case in preparation for an upcoming trial observation mission to Pakistan;
8. *Is convinced* that, in light of the aforesaid concerns, a Committee mission to Pakistan to discuss the issues at hand directly with all the relevant authorities and other stakeholders is needed more than ever in order to help find swift satisfactory solutions to these cases in accordance with applicable national and international human rights standards; *sincerely hopes*, therefore, that the Pakistani authorities will be able to receive this mission as soon as practicable; and *requests* in this regard the Secretary General to engage with the parliamentary authorities of Pakistan with a view to the dispatch of the mission as soon as possible;
9. *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;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Philippines



Former Philippine senator and human rights campaigner Leila de Lima (centre) waves as she arrives at the Muntinlupa City Trial Court in Manila on 16 October 2023. | JAM STA ROSA / AFP

### PHL-08 – Leila de Lima

#### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of expression and opinion

#### A. Summary of the case

Ms. Leila de Lima served as Chairperson of the Philippines Commission on Human Rights from May 2008 to June 2010. In that capacity, she led a series of investigations into alleged extrajudicial killings linked to the “Davao Death Squad” in Davao City, where Mr. Duterte had been long-time mayor, and concluded that Mr. Duterte, former President of the Philippines, was behind the Davao Death Squad.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign for a senate seat in the May 2016 elections, a bid that was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she launched an inquiry into the killings of thousands of alleged drug users and drug dealers, which had reportedly taken place after President Duterte took office in June 2016. After she was elected to the Senate, she became the target of acts of intimidation and denigration, including by the then President Duterte himself.

Ms. de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her campaign for a senate seat. The charges, in three different cases, were brought in the wake of an inquiry in 2016 by the House of Representatives into drug trafficking in New Bilibid Prison and Ms. de Lima’s involvement in such trafficking while she was Secretary of Justice. The

#### Case PHL-08

**Philippines:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

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

**Submission of complaint:** September 2016

**Recent IPU decision:** March 2024

**IPU mission:** May 2017

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the President of the Senate (March 2024)
- Communication from the complainant: October 2023
- Communication to the authorities: Letter to the President of the Senate (September 2024)
- Communication to the complainant: April 2024



House-led inquiry was launched one week after she had initiated her inquiry in the Senate into the extrajudicial killings.

Since July 2018, Ms. de Lima has been charged in the three cases before Branches 205 and 256 of the Regional Trial Court (RTC) – Muntinlupa City. On 17 February 2021, RTC Branch 205 granted Ms. de Lima's demurrer to evidence in case No. 17-166, technically acquitting her, in the absence of sufficient evidence.

The complainant points out that during the presentation of the prosecution's evidence in the first of the two remaining cases (Case No. 17-165), not only was there no physical evidence of the alleged illegal drugs, or of the money allegedly delivered to Ms. de Lima as her share of the alleged illegal drug trade, but even the prosecution's own witnesses – mostly criminals serving sentences in the New Bilibid Prison – denied any involvement or even any personal knowledge of the alleged illegal drug trade. Instead, the prosecution spent most of its time attempting to prove the guilt of its own witnesses, including Mr. Peter Co, Mr. Hans Tan and Mr. Vicente Sy, all of whom repeatedly denied any involvement in the illegal drug trade, and whom the prosecution, to this date, has failed to indict as co-conspirators. Conveniently, the only person who was consistently singled out by these witnesses as having personal knowledge of the New Bilibid Prison drug trade and the role of Ms. de Lima died on 26 September 2016. That person, Mr. Tony Co, was an inmate who was stabbed to death in a staged prison riot that targeted inmates who initially refused to testify against Ms. de Lima before the House of Representatives Justice Committee's hearing on the New Bilibid Prison drug trade. Most importantly, the complainant points out that the prosecution's foremost witness in the case, Mr. Rafael Ragos, former National Bureau of Investigation Deputy Director and former Bureau of Corrections Officer-in-Charge, who had been the sole witness to testify that he had delivered money to Ms. de Lima's house on two occasions, recanted all his testimonies and statements against Ms. de Lima on 30 April 2022. In his retraction, Mr. Ragos said that he had been forced to testify against her by the then Secretary of Justice Vitaliano Aguirre II, who had led the witch-hunt against Ms. de Lima in the Philippines' House of Representatives Justice Committee's hearings in 2016. In addition to Mr. Ragos, Mr. Rodolfo Magleo, a former police officer convicted of kidnapping, and Mr. Nonilo Arile, a police asset, also recanted. In light of these recantations, Case No. 17-165 was concluded on 12 May 2023 with the acquittal of Ms. de Lima.

After Mr. Ragos' recantation, and earlier recantations by Mr. Kerwin Espinosa and co-accused former bodyguard Mr. Ronnie Dayan, in the remaining case (Case No. 17-167) two more witnesses for the prosecution recanted their testimony on 16 October 2023. This was done in a letter handed over to Ms. de Lima, and subsequently shared with the court, in which they said that they were "bothered by their consciences" and that they did not want the accused to be the victim of a false trial. The letter also mentioned that five more witnesses would also recant. Moreover, the complainant underscores that at least two other witnesses, Mr. Joel Capones and Mr. Herbert Colanggo, claim to have engaged in illegal drug trafficking. Despite these admissions made under oath and in open court, the prosecution refused to charge them, whether as co-conspirators in the same case or in a separate case, hence showing – according to the complainant – that they stand to benefit from incriminating Ms. de Lima. In the course of 2023, the case was forwarded to Judge Gener Gito of the RTC of Muntinlupa City (Branch 206) after Judge Romeo Buenaventura recused himself from the case. On 13 November 2023, Judge Gito granted Ms. de Lima bail, after which she was released. After running through the testimonies of the primary witnesses, the court stated that the testimonies were unable to clearly establish that conspiracy existed among the accused, including Ms. de Lima, to commit illegal drug trading. On 21 March 2024, the defence counsel filed a demurrer to evidence, which, if granted, would amount to an acquittal. On 24 June 2024, Judge Gito cleared Ms. de Lima of the third and last charge by granting the legal motion that technically called for the dismissal of the case.

On 30 November 2018, the United Nations Working Group on Arbitrary Detention concluded, echoing the conclusions of an earlier IPU mission to the Philippines, that Senator de Lima's detention was arbitrary and that her immediate release was in order.

Ms. de Lima ran for re-election to the Senate from detention in May 2022, but was not re-elected.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Is pleased* that Ms. de Lima was finally acquitted in the third remaining case;
2. *Notes* that the Committee on the Human Rights of Parliamentarians decided to close any further examination of the case in line with paragraph 25 of the Annex I to the Revised Rules and Practices of the Committee, considering that there were no grounds for any further action;
3. *Expresses deep concern*, nevertheless, that Ms. de Lima spent six and half years in detention as a result of seriously flawed legal proceedings; *remains convinced* in this regard that the criminal cases brought against Ms. de Lima came in response to her vocal opposition to the way in which the then President Duterte was waging war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; *sincerely hopes*, therefore, that the relevant Filipino authorities will take the necessary steps to address the underlying concerns that arose in this case, in particular with regard to those relating to the treatment of witnesses and the use of their testimonies, the length of the legal proceedings, respect for the presumption of innocence and the creation of a conducive environment for human rights defenders to carry out their work;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

# Philippines



France Castro Official portrait, 2019 © Wikipedia

PHI-10 – Francisca Castro (Ms.)  
PHI-13 – Sarah Jane I. Elago (Ms.)

## Alleged human rights violations

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

### A. Summary of the case

Ms. Francisca (“France”) Castro and Ms. Sarah Jane I. Elago became members of the Philippines’ House of Representatives in 2016. After 2022, only Ms. Castro remains a member of the House of Representatives.

The complainants state that in the course of their parliamentary mandates, they have both faced regular harassment due to their opposition to the policies of the then President, Mr. Rodrigo R. Duterte. This alleged intimidation includes being subjected to charges that have no legal or factual merit and that run counter to the individuals’ right to a fair trial and to their rights to freedom of expression, assembly and movement.

In this regard, the complainants state that Ms. Castro, who stood accused with 17 others, mostly educators and advocates for the Lumad indigenous community in Davao del Norte in the Philippines, as well as four pastors, was briefly arrested and detained on 28 and 29 November 2018 on a charge, first, of kidnapping, and then of “other acts of child abuse” in connection with the evacuation of 14 Lumad children attending the Salugpongan Ta’ Tanu

### Case PHL-COLL-02

**Philippines:** Parliament affiliated to the IPU

**Victims:** One current and one former members of parliament, both belonging to the opposition (two women)

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

**Submission of complaint:** December 2019

**Recent IPU decision:** March 2024

**IPU mission(s):** - - -

**Recent Committee hearings(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Report from the Legislative Research Service of the House of Representatives (October 2024)
- Communication from the complainants: September 2024
- Communication to the authorities: Letter to the President of the Senate (September 2024)
- Communication to the complainants: September 2024

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Igkanogon Community Learning Center in conflict-ridden Mindanao, where the armed forces, along with the paramilitary group Alamara, are fighting against the communist insurgency. It seems that the authorities are claiming that the learning centre operated as a front for the communist insurgency. The prosecution insisted that the crime of "other acts of child abuse" had been committed by the accused, as they accompanied the minors without the assistance and presence of the government law enforcement agency concerned or the written permission and consent of the minors' parents. The complainants stated that Ms. Castro and the other accused rescued the 14 minors from harassment and after the paramilitary group Alamara, in cooperation with the military, forced the teachers and students to leave. In this regard, the teachers led the students on foot on a challenging path from Sitio Dulyan to Sitio Butay where they were collected by Ms. Castro and other members of the National Solidary Mission. The children's parents reportedly denied that their children had been kidnapped by the accused and said that they had had to leave because the threats were no longer bearable. The complainants also state that the school is situated in a very remote and poor part of the country, that for that reason it served as a boarding school so that the children did not have to walk hours to go to and from school, and that the parents had all signed a special consent form to the school giving it something akin to parental authority. They also say that the school follows the regular curriculum and was in no way working with the rebel National People's Army. Moreover, the parents of the students, who were mostly poor peasants, as well as indigenous leaders in the area, have been pressured by the authorities to cooperate with the criminal proceedings. On 4 July 2024, the judge in the case acquitted the four pastors but convicted the other 14 to a prison term of between four years and nine months and 11 days on the one hand, and six years and eight months and one day on the other. In reaching his conclusion, the judge stated that the accused committed acts detrimental to the safety and well-being of the minor Lumad learners "by keeping them in their company and transporting them on foot in the evening for three hours on a dark and unsecured road without assistance and presence of law enforcement, government agency or even a written consent of the minors' parents, exposing the minors to hazard". The complainants submit that the judge has erred on both the facts that underpinned the charge against the accused and the applicable legal provisions. An appeal is pending.

The complainant states that Ms. Castro continues to be subjected to attacks, red-tagging and political harassment, and even threats. On 11 October 2023, the following remarks were made on national television, and subsequently disseminated on social media, by former President Duterte, whose daughter is the incumbent Vice-President of the Philippines: "I didn't tell them (France Castro and others) face-to-face, I didn't tell them that 'you know, we're enemies, I want to kill you but I want to kill you softly'". He then reportedly told his daughter, the Vice-President: "But your first target with the intelligence fund, is you, you, France, you communists whom I want to kill. Tell her already". According to the complainants, the former President issued these threats due to Ms. Castro's denunciation of the Vice-President's alleged unauthorized receipt and use in 2022 of 125 million pesos of confidential funds. Upon the insistent opposition of Ms. Castro and others to the new grant of confidential funds, the House of Representatives scrapped the Vice-President's request. The leadership of the House of Representatives has called former President Duterte out for threatening harm to Ms. Castro. The leaders of all political parties in the House of Representatives issued a statement on 14 October 2023 saying that "We, leaders of all political parties in the House of Representatives, take utmost exception to the remarks made by former President Rodrigo R. Duterte". On 24 October 2023, Ms. Castro filed a criminal complaint against former President Duterte for grave threats in relation to the Cybercrime Act or Republic Act No. 10175. In her criminal complaint, Ms. Castro, among others, said that President Duterte's remarks with regard to her were factually baseless and clearly malicious, but that she could not dismiss them as "figurative, joking, or otherwise benign". On 9 January 2024, the Quezon City Office of the City Prosecutor dismissed the complaint for "want of sufficient evidence". Ms. Castro filed a petition for review with the Department of Justice on 5 February 2024.

As a then member of parliament, Ms. Elago was directly and indirectly labelled in social media posts by the police and army as a terrorist. Red-tagging in the Philippines is understood to refer to the malicious blacklisting of individuals or organizations critical or not fully supportive of the actions of a sitting government in the country. These individuals and organizations are "tagged" as either communist or terrorist, or both, regardless of their actual political beliefs or affiliations. On 7 December 2020, Ms. Elago filed a complaint to the Office of the Ombudsperson with regard to the conduct of six senior army and government officials. The matter is still pending.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Reference and Research Bureau of the House of Representatives for the report provided;
2. *Is deeply concerned* that Ms. Castro and thirteen others were convicted and sentenced to hefty prison terms for their involvement in what appears to be a legitimate rescue operation; *understands* in this regard that it was inevitable for the operation to be carried out in challenging circumstances and that all efforts were taken to reduce the risk to the children who were brought to safety; *trusts* that the court of appeal will give due consideration to all the information presented by the prosecution and the defence; and *decides* to send a trial observer to the appeal proceedings with a view to monitoring and reporting on the question of respect for due process;
3. *Considers* that the criminal case against Ms. Castro and others also has to be seen in the context of the difficult environment for critical political opponents and human rights defenders in the Philippines to carry out their work without fear of reprisals: *remains deeply concerned* in this regard that the threats that the former President of the Philippines made on air made against the life of Ms. Castro have so far gone unpunished; *sincerely hopes* that the Department of Justice will reconsider the decision of the Prosecutor's Office and take the necessary follow-up action that Ms. Castro's complaint warrants; and *wishes* to receive more information on this point;
4. *Remains concerned* that Ms. Elago's complaint regarding her alleged red-tagging does not appear to have advanced before the Ombudsperson, with no sign of it being actively examined; *recalls* the legal principle that justice delayed is justice denied; *calls again on* the Ombudsperson to take the necessary action to examine the complaint along with any steps its findings may warrant; and *wishes* to be kept informed in this regard;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Department of Justice, the Ombudsperson, the complainants and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Thailand



Former Move Forward Party (MFP) leader Pita Limjaroenrat (centre) and fellow MFP members of parliament attend a press conference at the Thai parliament in Bangkok. Jack TAYLOR / AFP

### **Parliamentarians deprived of their mandate and political rights:**

- THA-84 - Pita Limjaroenrat
- THA-85 - Apichat Sirisoontorn
- THA-86 - Bencha Saengchan
- THA-87 - Chaithawat Tulathon
- THA-88 - Suthep Ou-Oun
- THA-235 - Padipat Suntiphada

### **Former parliamentarians deprived of their political rights for a prolonged time:**

- THA-89 - Amarat Chokepamitkul
- THA-90 - Nateepat Kulsetthasith
- THA-91 - Somchai Fungcholjit

### **Parliamentarians who did not lose their political rights, but whose party was dissolved:**

- |                                     |                                    |
|-------------------------------------|------------------------------------|
| THA-92 - Annsiri Waiaikanok         | THA-164 - Pimkarn Kiratiwirapakorn |
| THA-93 - Anupab Likitamnuaychai     | THA-165 - Piyachart Rujipornwasin  |
| THA-94 - Anusorn Kaewwichain        | THA-166 - Piyarat Chongthep        |
| THA-95 - Apisit Laistrooglai        | THA-167 - Pongpun Yodmuangcharoen  |
| THA-96 - Bhuntin Noumjerm           | THA-168 - Poonsak Chanchampee      |
| THA-97 - Boonloet Saengpan          | THA-169 - Prasertpong Sornnuvatara |
| THA-98 - Chaiwat Sathawornwichit    | THA-170 - Prasit Puttamapadungsak  |
| THA-99 - Chalermpong Saengdee       | THA-171 - Pratyawan Chaisueb       |
| THA-100 - Chalormchai Kulalert      | THA-172 - Preeti Charoensilp       |
| THA-101 - Charin Wongpantiang       | THA-173 - Pukkamon Noonanant       |
| THA-102 - Charus Koomkainam         | THA-174 - Puriwat Chaisamran       |
| THA-103 - Chatr Supatwanich         | THA-175 - Rachanok Sukprasert      |
| THA-104 - Chawan Ponlameungdee      | THA-176 - Rangsiman Rome           |
| THA-105 - Chayaphon Satondee        | THA-177 - Rapassorn Niyamosatha    |
| THA-106 - Chetawan Thuaprakhon      | THA-178 - Ratchapong Siosuwan      |
| THA-107 - Chitsanupong Tangmethakul | THA-179 - Romadon Panjor           |
| THA-108 - Chittawan Chinanuvat      | THA-180 - Rukchanok Srinork        |
| THA-109 - Chollathanee Chueanoi     | THA-181 - Sahassawat Kumkong       |
| THA-110 - Chonthicha Jangrew        | THA-182 - Sakdinai Numnu           |

- THA-111 - Chorayuth Chaturapornprasit  
THA-112 - Chulapong Yukate  
THA-113 - Chutchawan Apirukmonkong  
THA-114 - Chutima Kotchapan  
THA-115 - Chutiphong Pipoppinyo  
THA-116 - Ekkarach Udomumnouy  
THA-117 - Itthiphon Chontharasiri  
THA-118 - Jetsada Dontreesanoa  
THA-119 - Jirat Theangsuwan  
THA-120 - Julalack Khangutham  
THA-121 - Kalyapat Rachitroj  
THA-122 - Kamonthas Kittisoonthornsaku  
THA-123 - Kanphong Prayoosak  
THA-124 - Kantaphon Duang-amphon  
THA-125 - Koranic Chantada  
THA-126 - Karit Pannaim  
THA-127 - Karoonpon Tieansuwan  
THA-128 - Khamphong Thephakham  
THA-129 - Khunakorn Mannatirai  
THA-130 - Kiattikhun Tonyang  
THA-131 - Kittiphon Panprommart  
THA-132 - Krit Chevathamnon  
THA-133 - Krithiran Lersauritpakdee  
THA-134 - Krit Silapachai  
THA-135 - Laofang Bunditderdsakul  
THA-136 - Manop Keereepuwadol  
THA-137 - Nakorn Chareepan  
THA-138 - Narongdet Urankul  
THA-139 - Nataphol Tovichakchaikul  
THA-140 - Nattacha Boonchaiinsawat  
THA-141 - Nattapong Pipatchaisiri  
THA-142 - Nattapong Sumanotham  
THA-143 - Natthaphong Ruengpanyawut  
THA-144 - Nitipon Piwmow  
THA-145 - Nittaya Meesri  
THA-146 - Nobpadol Tibpayachol  
THA-147 - Nont Pisarnlimjaroenkit  
THA-148 - Nuttapong Premphunsawat  
THA-149 - Nutthawut Buaprathum  
THA-150 - Ongkan Chaibut  
THA-151 - Orapan Juntarueng  
THA-152 - Pakornwut Udompipatskul  
THA-153 - Panyarut Nuntapusitanoont  
THA-154 - Paramait Vithayaruksun  
THA-155 - Paramee Waichongcharoen  
THA-156 - Parit Wacharasindhu  
THA-157 - Patsarin Ramwong  
THA-158 - Pavitra Jittakit  
THA-159 - Phanida Mongkolsawat  
THA-160 - Phattharaphong Leelaphat  
THA-161 - Phetcharat Maichompoo  
THA-162 - Phuthita Chaianun  
THA-163 - Pichai Jangjunyawong  
THA-183 - Sakon Soontornvanichkit  
THA-184 - Saniwan Buaban  
THA-185 - Sasinan Thamniithinan  
THA-186 - Satit Taweephol  
THA-187 - Sawangjit Laoharajanaphan  
THA-188 - Shine Sittiphol  
THA-189 - Sia Jampathong  
THA-190 - Sirasit Songnuy  
THA-191 - Sirikanya Tansakun  
THA-192 - Sirilapas Kongtragan  
THA-193 - Sirin Sanguansin  
THA-194 - Siriroj Thanikkun  
THA-195 - Sittiphol Viboonthanakul  
THA-196 - Somchart Techathavorncharoen  
THA-197 - Somdul Eutcharoen  
THA-198 - Soraweei Subbaneda  
THA-199 - Sorrapat Sriparch  
THA-200 - Supachot Chaiyasat  
THA-201 - Supakon Tangtiphaiboontana  
THA-202 - Supapakorn Kityadhiguna  
THA-203 - Suphanat Minchaiyunt  
THA-204 - Surachet Pravinvongvuth  
THA-205 - Suraphan Wiyakorn  
THA-206 - Surawat Thongbu  
THA-207 - Suttasitt Pottasak  
THA-208 - Takul Yasaeng  
THA-209 - Tanadej Pengsuk  
THA-210 - Taopiphop Limjittrakorn  
THA-211 - Tawiwong Totawiwong  
THA-212 - Teerajchai Phuntumas  
THA-213 - Thanyathorn Dhaninwattanathorn  
THA-214 - Thitikan Thitipruethikul  
THA-215 - Tipa Paweenasatien  
THA-216 - Tisana Choonhavan  
THA-217 - Tissarat Laohaphol  
THA-218 - Traiwat Imjai  
THA-219 - Tunyawat Kamolwongwat  
THA-220 - Vittawat Tichawanich  
THA-221 - Vitvisit Pansuanprook  
THA-222 - Wannida Noppasit  
THA-223 - Wanvipa Maison  
THA-224 - Warayut Tongasuk  
THA-225 - Warot Sirirak  
THA-226 - Wayo Assawarungruang  
THA-227 - Weeranan Huadsri  
THA-228 - Weerapat Kantha  
THA-229 - Weerawut Rukthieng  
THA-230 - Wiroj Lakkanaadisorn  
THA-231 - Woraphop Wiriyaraj  
THA-232 - Wuttinan Boonchoo  
THA-233 - Yanathicha Buapuean  
THA-234 - Yodchai Peungporn

## Alleged human rights violations

- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate

### A. Summary of the case

Thailand's Move Forward Party (MFP) obtained most seats in the May 2023 parliamentary elections after campaigning on a progressive agenda, which included a promise to reform the *lèse-majesté* rules contained in section 112 of the Criminal Code.

The complainant reports that, on 31 January 2024, the Constitutional Court of Thailand ruled that the proposal to discuss the amendment of this law by MFP leader and prime ministerial candidate, Mr. Pita Limjaroenrat, and other MFP parliamentarians was deemed to be sufficient grounds to be construed as an endeavour to overthrow the democratic nature of the government with the King as Head of State. The complainant adds that the Court found that such a proposal contravenes section 49(1) of the Constitution, which explicitly prohibits any individual from exercising their rights or liberties to overthrow the democratic nature of the government with the King as Head of State.

The complainant specifies that the court ruling ordered the MFP to cease and desist from any action to reform section 112 of the Criminal Code, including by expressing opinions, speaking, writing, publishing or conveying messages by any other means in pursuit of amending section 112. According to the complainant, the MFP agreed to comply with the ruling and made it clear that it had no intention of overthrowing the monarchy, while regretting that Thai society would lose the opportunity to make use of its parliament to find a solution to the conflicts arising from section 112, which can lead to sentences of up to 50 years' imprisonment for critical posts on social media. Shortly after the Constitutional Court's ruling of 31 January 2024, a petition was filed with the National Anti-Corruption Commission (NACC) asking it to investigate claims of a serious ethical violation by the 44 lawmakers who had submitted the bill to amend section 112 of the Criminal Code in 2021. Section 235 of the Thai Constitution stipulates that if the NACC finds grounds for allegations of a serious ethical violation by political office holders, it will have to forward the case to the Supreme Court's Criminal Division for Holders of Political Positions. The NACC was reported in August 2024 to be carrying out an investigation into the allegations of ethical misconduct, which was expected to last six months.

In another procedure, the complainant claims that, on 12 March 2024, the Election Commission decided to petition the Constitutional Court to dissolve the MFP under the Organic Act on Political Parties (2017). According to the complainant, this step was politically motivated and violated the political rights of the members of parliament concerned as well as their parliamentary mandate.

On 7 August 2024, the Constitutional Court unanimously decided to dissolve the MFP and to ban Mr. Limjaroenrat and the other members of the MFP executive board from exercising their political rights for ten years. The remaining 143 members of parliament who were elected in 2023 would have lost their seats had they not joined another party within 60 days. On 9 August 2024, all 143 members of parliament joined the newly established People's Party (PPP), which allowed them to keep their parliamentary seat. The aim of the PPP is to carry on the legacy of the MFP under the leadership of a new executive board led by Mr. Natthaphong Ruengpanyawut. The latter is one of the 44 current and former members of parliament who may lose their political rights for life as a result of their proposal to discuss the amendment of section 112 in 2021, a matter that is pending before the NACC. This group

### Case THA-COLL-02

**Thailand:** Parliament affiliated to the IPU

**Victims:** 152 opposition members of the National Assembly of Thailand (36 female and 116 male)

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

**Submission of complaint:** March 2024

**Recent IPU decision(s):** - - -

**IPU mission(s):** - - -

#### Recent Committee hearing:

- Hearing with the Thai delegation to the 149th Assembly (October 2024)

#### Recent follow-up:

- Communication from the authorities:
- Communication from the complainant: April 2024
- Communication to the authorities: Letter to the Speaker of the House of Representatives: September 2024
- Communication to the complainants: October 2024



also includes Deputy Speaker Padipat Suntiphada, who lost his seat as a result of the 7 August 2024 ruling, even though he had left the MFP for the Fair Party shortly after the 2023 elections.

During its last review of the situation in Thailand, the United Nations (UN) Human Rights Committee expressed its concern about the “increase in the number of people detained and prosecuted for the crime of lese-majesty” and “about extreme sentencing practices, which result in dozens of years of imprisonment in some cases”.<sup>2</sup> The UN Committee called on Thailand to amend section 112 to bring it into conformity with the International Covenant on Civil and Political Rights and reiterated that the imprisonment of persons for exercising their freedom of expression violates article 19 of the Covenant. Commenting on the 7 August ruling, two UN special rapporteurs said that they were “dismayed by the undemocratic use of the lèse-majesté law as a political tool to dissolve the [MFP]”, adding that their proposal to amend section 112 “would have brought Thailand into compliance with its international human rights obligations”, thus “punishing parliamentarians for seeking to uphold international law”. They stressed that section 112 “has no place in a modern democracy. It is outdated and out of step with international law, and efforts to peacefully reform it should be supported, not thwarted”.<sup>3</sup>

In addition, the complainant reports that, on 5 February 2024, a district court found Mr. Limjaroenrat and other key progressive political figures guilty of holding a flash mob demonstration without prior notice during the 2019–2020 protests that followed the dissolution of the Future Forward Party, a past manifestation of the MFP that was dissolved in 2020. The complainant adds that the court handed down four-month suspended prison terms to Mr. Limjaroenrat and fellow party leaders. In addition, on 27 May 2024, a provincial court convicted another MFP member of parliament, Ms. Chonthicha Jangrew, for breaking section 112 of the Criminal Code and sentenced her to two years of imprisonment for comments she made about the King in 2021. She was later released on bail pending appeal.

The complainant also reports that, on 19 February 2023, the Constitutional Court ordered Mr. Limjaroenrat to temporarily cease his duties as a member of parliament pending a final deliberation by the Court in a case involving a potential violation of election laws by his holding of shares in a defunct media company. According to the complainant, on 24 January 2024, the Court reinstated his mandate by determining that, while he did hold some minor shares in the company in question, that company had ceased to function as a media outlet at the time. However, the complainant stresses that Mr. Limjaroenrat, the then leader of the MFP, was suspended for a total of 190 days. According to the complainant, this suspension was arbitrary and politically motivated, as in other cases members of parliament who were not opposition leaders had not been suspended in a similar manner.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning 152 opposition members of the Thailand's Move Forward Party (MFP) of the National Assembly of Thailand is admissible, considering that the complaint (i) was submitted in due form by a qualified complainant under section I.(1)(c) 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); (ii) concerns former and incumbent members of parliament at the time of the alleged facts; and (iii) concerns allegations of lack of due process in proceedings against parliamentarians; violation of freedom of opinion and expression; violation of freedom of assembly and association; and undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate, allegations which fall within the Committee's mandate;

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<sup>2</sup> <https://www.ohchr.org/en/documents/concluding-observations/ccprthaco2-concluding-observations-second-periodic-report>

<sup>3</sup> <https://www.ohchr.org/en/press-releases/2024/08/thailand-un-experts-seriously-concerned-about-dissolution-main-political>

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2. *Thanks* the Thai delegation, led by the President of the Senate, for the information provided at a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 149th IPU Assembly in Geneva and for parliament's commitment to continuing to cooperate with the Committee;
3. *Is deeply concerned* by the fact that the largest party in parliament has been dissolved by the Constitutional Court and that the members of its executive board have been expelled from parliament and deprived of their political rights; and *is disappointed* that the practice of resorting to the dissolution of opposition political parties by the Constitutional Court remains a feature of Thai political life, despite the promising reforms that restored democratic rule in 2017;
4. *Finds it incomprehensible* that a court could conclude that the MFP parliamentarians who tabled a motion to discuss a legislative amendment of the Criminal Code were thereby guilty of attempting to overthrow the democratic nature of the government with the King as Head of State; *is dismayed* that 44 current and former parliamentarians from the dissolved MFP party could lose their political rights for life following a process before the National Anti-Corruption Commission; *is also concerned* that a current member of parliament, Ms. Chonthicha Jangrew, has been sentenced to two years of imprisonment for a speech criticizing a public policy decision in relation to the management of financial assets of His Majesty the King; *strongly believes* that the Thai parliamentary authorities have a duty to ensure that the rights of all its members are duly protected from any infringement; and *calls on* the Thai Parliament to do its utmost to protect the rights of all parliamentarians, irrespective of their affiliation;
5. *Cannot but concur* with the United Nations Human Rights Committee that section 112 of the Criminal Code of Thailand as presently constituted is not in conformity with the International Covenant on Civil and Political Rights and that Thailand, as a State party to the Covenant, is under an obligation to bring section 112 into conformity with international standards on freedom of expression, which rule out any imprisonment of persons exercising their freedom of expression; *strongly believes* that the Thai Parliament has a vested interest and an undeniable duty to lead the way to that end; and *calls on* the Thai parliamentary authorities to carry out a review of all legislation that is inconsistent with Thailand's international obligations in that regard and to make the necessary changes in the Criminal Code, the Organic Act on Political Parties (2017), the codes of ethics applicable to parliamentarians, as well as any other relevant legislation, to prevent the reoccurrence of arbitrary or disproportionate measures against parliamentarians exercising their rights and fulfilling their duties;
6. *Is pleased* to hear from the Thai delegation that serious discussions are under way to amend the present Constitution in order to ensure that the aspirations of Thai society for a democracy based on the full respect for the right to freedom of expression and other human rights are realized; *believes*, nevertheless, that much could already be done, within the framework of the present Constitution, to improve issues of administration of justice and freedom of expression through appropriate oversight and legislative reform; *calls on* the authorities to make use of the expertise of the United Nations special procedures, in particular the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to ensure that the legislation of Thailand does in fact comply with relevant international human rights standards; and *suggests* that the IPU offer assistance to the Thai authorities in any such legal review;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining the case and to report back to it in due course.

## Tunisia



Abir Moussi (centre), President of the Free Destourian Party (PLD), removes her mask and gestures with her hand at a parliamentary meeting during which Tunisian MPs debated a vote of confidence in the new Government formed by the Prime Minister, at the Tunisian Assembly headquarters in Tunis on 26 January 2021. FETHI BELAID/AFP

### TUN-06 – Abir Moussi

#### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Impunity
- ✓ Other violations

#### A. Summary of the case

A member of the Assembly of People's Representatives of Tunisia elected in 2019 for a five-year term, Ms. Abir Moussi was the victim of acts of verbal and physical violence and sexist, degrading insults directly linked to the exercise of her parliamentary mandate. The abuse suffered by Ms. Moussi is allegedly based, on the one hand, on the fact that she is the leader of an opposition political party and, on the other, on her gender. Ms. Moussi has also received serious death threats, which she has reported to the police, who provided her with security when she was still an MP.

The complainant's allegations were supported by videos and excerpts from social media posts that helped identify the alleged perpetrators, including two former members of the Assembly of People's Representatives elected in 2019, Mr. Seifeddine Makhlouf and Mr. Sahbi Smara. The latter had physically assaulted Ms. Moussi during Assembly proceedings on 30 June 2021. The two parliamentarians have not been punished as no disciplinary measures had been taken by the parliamentary authorities against them or against other members of the same political party accused of harassing and intimidating Ms. Moussi with the aim of removing her from political life.

In several letters sent between 2020 and 2023, the parliamentary and executive authorities pointed out that measures had been taken to protect Ms. Moussi's rights, in particular the provision of permanent security by the Ministry of the Interior. Nevertheless, the Tunisian authorities had repeatedly asserted that Ms. Moussi's conduct was prejudicial and that certain measures taken against her were justified.

#### Case TUN-06

**Tunisia:** Parliament affiliated to the IPU

**Victim:** Female former opposition member of parliament

**Qualified complainant(s):** Section I1(a) of the Committee Procedure (Annex I)

**Submission of complaint:** October 2020

**Recent IPU decision:** February 2024

**Recent IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with the parliamentary authorities at the 149th IPU Assembly (October 2024)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the Assembly of People's Representatives (May 2024)
- Communication from the complainant: February 2024
- Communications to the authorities: Letter to the Speaker of the Assembly of People's Representatives and the Minister of Justice (June 2024)
- Communication to the complainant: September 2024

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On 25 July 2021, President Kaïs Saïed suspended parliament and lifted the parliamentary immunity of all parliamentarians, invoking Article 80 of the Constitution. The President granted himself the power to legislate by means of presidential decrees, which are not subject to judicial review given the absence of a Constitutional Court. On 30 March 2022, the President officially dissolved parliament and announced a road map for the year 2022 that included the organization of parliamentary elections and the adoption of a new Constitution. According to the results published by the *Instance supérieure indépendante pour les élections*, ISIE (Independent High Authority for Elections), the turnout for the parliamentary elections was around 11%. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT), a powerful national trade union organization, boycotted the elections on the grounds that the whole constitutional process initiated by President Saïed had been neither free nor fair. They therefore rejected the election results as illegitimate.

In January 2023, Ms. Moussi's political party was reportedly banned from protesting freely against the decrees adopted by President Kais Saïed. Ms. Moussi and her supporters were allegedly violently prevented from marching by a public order brigade.

On 3 October 2023, Ms. Moussi was arrested while attempting to lodge an appeal against the presidential decrees on organizing and holding local elections scheduled for December 2023, citing a lack of transparency in the electoral process. On 5 October 2023, she was questioned by an investigating judge about a series of security-related allegations, and the judge ordered that she be remanded in custody. She is accused of "an attack aimed at changing the form of government, inciting people to arm themselves against each other or to provoke disorder, murder or looting in the country", as stipulated in section 72 of the Tunisian Criminal Code. The complainant added that Ms. Moussi's detention was intended to hinder her participation in the presidential elections that took place in October 2024. No decision to extend her detention appears to have been taken pursuant to section 85 of the Code of Criminal Procedure. Ms. Moussi spent nine months in pretrial detention before being sentenced in August 2024.

In a letter received on 20 December 2023, the parliamentary authorities stated that they did not have any official information on the judicial cases in progress, as these proceedings fell within the remit of the judicial authorities, in accordance with the principle of the separation of powers set out in the new Tunisian Constitution adopted in 2022. Furthermore, according to the parliamentary authorities, these cases are also subject to the principle of confidentiality of the investigation in order to ensure the proper conduct of investigations and protection of personal data. In the same letter of 20 December 2023, the parliamentary authorities refuted the allegations that the proceedings initiated against the former members of parliament, including Ms. Moussi, were political in nature, stating that these allegations were unfounded, without, however, providing any arguments to that effect. According to the authorities, the current proceedings are based on laws applicable to all citizens, who remain equal before the law, and that involvement in politics does not guarantee immunity for those who break the law, contrary to what prevailed in the past.

At a hearing with the Tunisian delegation during the 148th IPU Assembly, which took place in Geneva in March 2024, the Committee reiterated its concerns about the arbitrary detention of Ms. Moussi and the recent information received concerning her. During this meeting, the delegation undertook to provide updated information about Ms. Abir Moussi and all the other former Tunisian members of parliament. The Committee had decided not to adopt any new decisions in the Tunisian cases in order to foster constructive cooperation with the newly elected parliamentary authorities. However, in a letter dated 20 May 2024, the parliamentary authorities reiterated the same arguments they had already put forward in their letter of 20 December 2023.

On 5 August 2024, Ms. Abir Moussi was sentenced by the Tunis Court of First Instance to two years' imprisonment under Decree Law No. 54 on the grounds that she had criticized the legislative election process. Ms. Moussi's sentence is said to be arbitrary, as it is based on the legitimate exercise of her right to freedom of expression. In a letter sent to her supporters on 10 September 2024, Ms. Moussi denounced her detention conditions, which are contributing to the deterioration of her health.

At the Committee's request, a further hearing with the Tunisian delegation was held during the 149th IPU Assembly, which took place in Geneva in October 2024. With regard to the physical violence to which Ms. Moussi had been subjected, the delegation stated that the new Tunisian

Constitution adopted in 2022 prohibited any act of violence inside and outside Parliament. In the event of verbal or physical violence, MPs are punished and reprimanded. The Tunisian Parliament had therefore taken serious measures to guarantee a climate of respectful dialogue and to end the acts of incivility that had occurred during the former parliament. The delegation said it wanted the judicial system to conclude its investigation of Ms. Moussi's case so that her attackers did not go unpunished.

In response to the Committee's questions about Ms. Moussi's sentence, her prosecution and the status of legal proceedings, the parliamentary delegation reiterated that it had no information about Ms. Moussi because of the principle of separation of powers. The delegation stressed that as proceedings against Ms. Moussi were still under way and that no final ruling had been handed down, the Assembly of People's Representatives had no influence on the judicial process, which remained independent from political interference. While the delegation had no information on Ms. Moussi's situation, it nevertheless stated that all cases concerning former MPs, including Ms. Moussi's case, were not of a political nature and had started after the end of the MPs' parliamentary mandate. Ms. Moussi could therefore not claim parliamentary immunity, which had expired when parliament had been dissolved in 2021.

Regarding the request for an IPU mission, the Tunisian delegation stated that a Committee delegation would be welcome. Nevertheless, all visits were subject to procedures determined by the Minister of Foreign Affairs, under the authority of the President of the Republic, which would have to consider the mission request submitted by the Committee.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Tunisian delegation for the information provided at the 149th IPU Assembly;
2. *Deplores* the sentencing of Ms. Abir Moussi to two years in prison and the charges brought against her on the ground that she criticized the legislative election process; and *does not understand* how a simple criticism can justify the charges of "an attack aimed at changing the form of government" brought against her; and strongly *recalls* that Ms. Moussi's remarks were made in the context of her right to freedom of expression, one of the pillars of democracy, which is essential for members of parliament and which covers not only speech, opinions and comments favourably received or considered as being inoffensive, but also those that are likely to offend, shock or disturb;
3. *Regrets* that Ms. Moussi has been held in pretrial detention since October 2023, for almost 10 months in deplorable conditions that are allegedly detrimental to her health; and *calls on* the Tunisian authorities to release Ms. Moussi and to drop the charges against her, given that they appear to be based solely on the peaceful exercise of her rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights, to which Tunisia has acceded;
4. *Deeply regrets* the lack of concrete information from the Tunisian authorities on Ms. Moussi's case on the ground of separation of powers that guarantees the independence of the judiciary; *stresses* that while respecting the independence of the judiciary and the principle of separation of powers, the parliamentary authorities could take an interest in the case of former MPs as a matter of parliamentary solidarity, and exercise their supervisory powers to ask for information pertaining to public order which does not impede the course of justice; and *encourages* to this end the recently elected Assembly of People's Representatives to use all the mechanisms at its disposal to exercise its supervisory powers over the executive and judiciary branches, within the limits of the Tunisian Constitution, in order to establish its authority as a legislative body and to inform itself of the charges brought against Ms. Moussi, the date of her trial and the status of the legal proceedings brought against her, to ensure that she is given a fair trial;

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5. *Reiterates its hope* that a delegation from the Committee on the Human Rights of Parliamentarians will be able to visit Tunisia in the near future in order to foster constructive and inclusive dialogue and help resolve Ms. Moussi's case; and *hopes* to receive a positive response and support from the Assembly of People's Representatives and the Ministry of Foreign Affairs to this end to enable the mission to take place in the best possible conditions;
6. *Requests* the Secretary General to convey this decision to the Speaker of the Assembly of People's Representatives, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Tunisia



Tunisian security forces guard the entrance to the country's parliament in Tunis, Tunisia, on 1 October 2021. © Anadolu Agency via AFP

- |                                      |                                |
|--------------------------------------|--------------------------------|
| TUN-07 - Seifedine Makhoul           | TUN-39 - Noomane El Euch       |
| TUN-08 - Maher Zid                   | TUN-40 - Abdelhamid Marzouki   |
| TUN-09 - Maher Medhioub              | TUN-41 - Ayachi Zammal         |
| TUN-10 - Yosri Dali                  | TUN-42 - Samir Dilou           |
| TUN-11 - Fethi Ayadi                 | TUN-43 - Habib Ben Sid'hom     |
| TUN-12 - Awatef Ftirch (Ms.)         | TUN-44 - Mabrouk Khachnaoui    |
| TUN-13 - Omar Ghribi                 | TUN-45 - Bechir Khelifi        |
| TUN-14 - Faiza Bouhlel (Ms.)         | TUN-46 - Nouha Aissaoui (Ms.)  |
| TUN-15 - Samira Smii (Ms.)           | TUN-47 - Latifa Habachi (Ms.)  |
| TUN-16 - Mahboub Ben Dhifallah (Ms.) | TUN-48 - Ferida Laabidi (Ms.)  |
| TUN-17 - Mohamed Zrig                | TUN-49 - Mohamed Affas         |
| TUN-18 - Issam Bargougui             | TUN-50 - Abdellatif Aloui      |
| TUN-19 - Samira Chaouachi (Ms.)      | TUN-51 - Mehdi Ben Gharbia     |
| TUN-20 - Belgacem Hassan             | TUN-52 - Rached Khiari         |
| TUN-21 - Kenza Ajela (Ms.)           | TUN-53 - Lilia Bellil (Ms.)    |
| TUN-22 - Emna Ben Hmayed (Ms.)       | TUN-54 - Moussa Ben Ahmed      |
| TUN-23 - Bechr Chebbi                | TUN-55 - Oussama Khelifi       |
| TUN-24 - Monjia Boughanmi (Ms.)      | TUN-56 - Ghazi Karoui          |
| TUN-25 - Wafa Attia (Ms.)            | TUN-57 - Mohamed Fateh Khelifi |
| TUN-26 - Jamila Jouini (Ms.)         | TUN-58 - Ziad El Hachemi       |
| TUN-27 - Mohamed Lazher Rama         | TUN-59 - Sofiane Makhoulfi     |
| TUN-28 - Nidhal Saoudi               | TUN-60 - Majdi Karbai          |
| TUN-29 - Neji Jmal                   | TUN-61 - Anouar Ben Chahed     |
| TUN-30 - Zeinab Brahmi (Ms.)         | TUN-62 - Yassine Ayari         |
| TUN-31 - Mohamed Al Azhar            | TUN-63 - Ghazi Chaouachi       |
| TUN-32 - Noureddine Bhiri            | TUN-64 - Ahmed Mechergui       |
| TUN-33 - Rached Ghannouchi           | TUN-65 - Mohamed Ben Salem     |
| TUN-34 - Tarek Fetiti                | TUN-66 - Lazhar Akremi         |
| TUN-35 - Imed Khemiri                | TUN-67 - Ali Laraiedh          |
| TUN-36 - Walid Jalled                | TUN-68 - Ahmed Ameri           |
| TUN-37 - Safi Said                   | TUN-69 - Sayed Ferjani         |
| TUN-38 - Iyadh Elloumi               | TUN-70 - Sahbi Atig            |

## Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

### A. Summary of the case

This case concerns 64 members of the Assembly of People's Representatives of Tunisia elected in 2019 who, according to the complainants, are victims of arbitrary prosecutions after expressing their opposition to the exceptional measures adopted by President Kaïs Saïed since 25 July 2021.

More generally, the suspension of parliament on 25 July 2021 by President Saïed had an impact on the 217 members of the Assembly of People's Representatives elected in 2019, who were deprived of their parliamentary immunity, allowances, medical insurance and freedom of movement, including for the purposes of receiving medical treatment.

On 30 March 2022, 120 members of parliament elected in 2019 took part in an online plenary session to discuss the presidential decrees. A few hours after the plenary session, President Saïed officially dissolved parliament and the Public Prosecutor opened an investigation into the members of parliament for an attempted coup d'état and conspiracy against justice. For fear of reprisal, only nine of the 120 members of parliament concerned, including the former Speaker of the National Assembly, Mr. Rached Ghannouchi, submitted a complaint to the Committee. Mr. Ghannouchi was summoned for questioning at great length on 1 April 2022 about this case.

Moreover, the dissolution of parliament had, according to the complainants, additional consequences for some members of parliament elected in 2019 from the *Ennahda* and *Al Karama* blocs, who were directly targeted because of their opposition to President Saïed and were imprisoned before being released, including Mr. Seifedine Makhoul and Mr. Nidhal Saoudi. Mr. Nourredine Bhiri, who had initially been arrested and detained on 31 December 2021 before being released on 8 March 2022, was again arrested on 13 February 2023 by officers from the national terrorist crimes investigation unit. Mr. Bhiri is still being held in pretrial detention. The cases concerning certain members of parliament are also being examined in the military courts, as provided for by Tunisian law.

In the same context, Mr. Rached Khiari, who has been charged in other cases, has been detained since 3 August 2022 on a charge of defamation against another person on social media brought by the Ministry of Education. Mr. Khiari is also alleged to have accused President Saïed of receiving foreign funding for his 2019 election campaign and is now facing the military courts on these charges. Similarly, Mr. Mehdi Ben Gharbia has been held in pretrial detention since 20 October 2021, accused of money laundering, and is allegedly still being held despite the detention exceeding the legal six-month limit. In its Opinion No. 50/2023 of 26 September 2023 concerning the case of Mr. Ben Gharbia, the Working Group on Arbitrary Detention stated that Mr. Ben Gharbia's detention was arbitrary based on the information provided by the source. The working group also called on the Tunisian authorities, who have not sent their

### Case TUN-COLL-01

**Tunisia:** Parliament affiliated to the IPU

**Victims:** 63 members of the opposition (51 men and 12 women)

**Qualified complainant(s):** Sections 1.1(a) and (b) of the Committee Procedure (Annex I)

**Submission of complaints:** August, September and October 2021

**Recent IPU decision:** February 2024

**IPU mission(s):** - - -

**Recent Committee hearing:** Hearing of the Tunisian delegation at the 148th IPU Assembly (March 2024)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the Assembly of People's Representatives (June 2024)
- Communication from the complainants: September 2024
- Communications to the authorities: Letters to the Minister of Justice and to the Speaker of the Assembly of People's representatives (June, April and September 2024)
- Communication to the complainants: (September 2024)



official observations to the UN mechanism, to release Mr. Ben Gharbia immediately and grant him the right to obtain compensation.

As for Mr. Rached Ghannouchi, he is allegedly the target of politically motivated persecution, as he has been charged in several cases that the complainants maintain are politically motivated. On 15 May 2023, he was sentenced by Tunisia's anti-terrorism court to one year's imprisonment and a fine for public statements he had made in 2022.

In their letter of 28 January 2022, the executive authorities stated that all members of parliament, whose mandates had been suspended, enjoyed freedom of movement and travel, apart from those subject to a legal ruling prohibiting them from leaving the country. In a more recent communication of 11 October 2022, the executive authorities confirmed that the members of parliament who had taken part in the online session of 30 March 2022 were being investigated. As for Mr. Ben Gharbia's situation, the authorities stated that he was currently the subject of a criminal prosecution; his first hearing of 7 July 2022 had been deferred to 13 October 2022. Requests for his release had been refused.

In May and June 2023, the complainants referred eight new complaints to the Committee concerning the cases of eight former Tunisian members of parliament who were subject to arbitrary prosecutions because of their opposition to the measures taken by the President of the Republic. These include Mr. Sayed Ferjani and Mr. Ahmed Mechergui, who were allegedly arrested on 27 February and 19 April 2023, respectively, in connection with the investigation against Mr. Ghannouchi in the Instalingo case. Similarly, Mr. Ahmed Laâmari and Mr. Mohamed Ben Salem were reportedly arrested in March 2023 for organizing an illegal border crossing and illegally holding currency. Mr. Lazhar Akremi and Mr. Ghazi Chaouachi were reportedly arrested in February 2023 in connection with a plot against state security. Mr. Ali Laraiedh, the former Prime Minister, was arrested on 19 December 2022 on vague terrorism charges. The complainants state that he is being held in detention without having appeared before a judge. Finally, former member of parliament Mr. Sahbi Atig was allegedly arrested on 6 May 2023 and prosecuted for "corruption" and "money laundering". According to the complainants, the aim of all these cases is to silence former members of parliament who had publicly criticized the Head of State. In a recent communication, the complainants also indicated that Ms. Lilia Bellil wished to have her name removed from the present case, on the grounds that she had never expressed the wish for the Committee to examine her case.

In their letters of July and December 2023, the authorities stated that they were not in a position to provide information on the judicial proceedings under way because of the principle of the separation of powers. Furthermore, according to the parliamentary authorities, these cases are also subject to the principle of confidentiality of the investigation in order to ensure the proper conduct of investigations and protection of personal data. In the same letter of 20 December 2023, the parliamentary authorities refuted the allegations that the proceedings initiated against the former members of parliament were political in nature, stating that these allegations were unfounded, without, however, providing any arguments to that effect. According to the authorities, the current proceedings are based on laws applicable to all citizens, who remain equal before the law, and that involvement in politics does not guarantee immunity for those who break the law, contrary to what prevailed in the past.

Although this case includes individual situations, some of which relate to events prior to the dissolution of parliament, the violations suffered by all the members of parliament concerned, belonging to the Assembly of People's Representatives elected in 2019, are part of the exceptional measures taken by President Saïed since 25 July 2021. The latter invoked Article 80 of the Constitution to suspend and dissolve parliament, lifting the parliamentary immunity of members of parliament and granting himself the power to legislate by presidential decrees, which are not subject to judicial appeal given the absence of a Constitutional Court. On 30 March 2022, the President officially dissolved parliament, announcing a road map for 2022 that included the organization of legislative elections and adoption of a new Constitution. According to the results published by the *Instance supérieure indépendante pour les élections*, ISIE (Independent High Authority for Elections), the turnout for the legislative elections, which finally took place in December 2022 and January 2023, was around 11%. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT), a powerful national trade union organization, boycotted these elections on the grounds that the whole constitutional process initiated by President Saïed had been neither free nor fair. The parties involved therefore rejected the election results as illegitimate.

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On 13 September 2022, President Saïed promulgated Decree Law No. 2022-54 on combating offences relating to information and communication systems. According to the complainants, since the promulgation of this law, the authorities have used it to muzzle and intimidate the opposition. Several former members of parliament included in this case are being prosecuted under this law and could face up to five years' imprisonment. On 22 September 2022, the African Court on Human and Peoples' Rights adopted a decision against Tunisia, in which it deemed that the President of the Republic's power to take exceptional measures was limited by the procedural requirements of Article 80 of the Constitution. The Court found that the measures adopted were not only disproportionate to their stated objectives, but also to the laws of Tunisia.

At a hearing with the Tunisian delegation during the 148th IPU Assembly, which took place in Geneva in March 2024, the Committee reiterated its concerns about the arbitrary detention of several former Tunisian members of parliament. During this meeting, the delegation undertook to provide updated information about the other former members of parliament, including on the status of proceedings initiated against them. The Committee had decided not to adopt any new decisions in the Tunisian cases in order to foster constructive cooperation with the newly elected parliamentary authorities. However, in a letter dated 20 May 2024, the parliamentary authorities explained that the Assembly of People's Representatives, as an independent legislative body, did not interfere in legal proceedings and had no information about the legal action brought against members of the former Assembly.

In September 2024, the complainants indicated that ten of the former members of parliament in this case were still in detention, while the cases of nine others had been referred to the military courts.

At the Committee's request, a further hearing with the Tunisian delegation was held during the 149th IPU Assembly, which took place in Geneva in October 2024. The delegation reiterated the same comments made by the parliamentary authorities in their letter of 20 May 2024; in other words, that it had no information on the cases of the former members of parliament because of the principle of separation of powers. The delegation stressed that, as proceedings against the former members of parliament were still under way and that no final ruling had been handed down, the Assembly of People's Representatives had no influence on the judicial process, which remained independent from political interference. While the delegation had no information on the situation of the former members of parliament, it nevertheless stated that all cases concerning former members of parliament were not of a political nature and had started after the end of their parliamentary mandate. The former members of parliament could therefore not claim parliamentary immunity, which had expired when parliament had been dissolved in 2021.

Regarding the request for an IPU mission, the Tunisian delegation stated that a Committee delegation would be welcome. Nevertheless, all visits were subject to procedures determined by the Minister of Foreign Affairs, under the authority of the President of the Republic, who would have to consider the mission request submitted by the Committee.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Tunisian delegation for the information provided at the 149th IPU Assembly;
2. *Reiterates its deep concern* at the continued detention of ten former Tunisian members of parliament on grounds that until now remain vague; and *calls on* the Tunisian authorities, in particular the Ministry of Justice, to provide detailed information on the cases of the imprisoned former members of parliament;
3. *Strongly reaffirms* that healthy democracies are based on the diversity of political opinion, which should be heard and respected; and, to this end, *calls on* the Tunisian authorities to release as a matter of urgency any former members of parliament detained for expressing their opposition

to the exceptional measures adopted by the President of the Republic and to drop the charges against them and the 120 former members of parliament who met on 30 March 2022, given that these proceedings appear to be based solely on the peaceful exercise of their rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights to which Tunisia has acceded;

4. *Deeply regrets* the lack of concrete information from the Tunisian authorities on this collective case on the grounds of separation of powers; *stresses* that while respecting the independence of the judiciary and the principle of separation of powers, the parliamentary authorities should take an interest in the case of former members of parliament as a matter of parliamentary solidarity, and exercise their supervisory powers to ask for information pertaining to public order that does not impede the course of justice; and *encourages* to this end the recently elected Assembly of People's Representatives to use all the mechanisms at its disposal to exercise its supervisory powers over the executive and judiciary branches, within the limits of the Tunisian Constitution, in order to establish its authority and to inform itself of the charges brought against the former members of parliament implicated in this case, the date of their trial and the status of the legal proceedings brought against them, to ensure that they are given a fair trial;
5. *Deplores* the use of military courts in cases concerning civilians, including the nine former members of parliament; *urges* the Tunisian authorities to ensure that military courts are not used in cases concerning members of parliament elected in 2019 and to review the provisions of Tunisian law that allow this practice; and *wishes* to receive detailed information on the situation of all the former members of parliament included in this case;
6. *Reiterates the hope* that a delegation from the Committee on the Human Rights of Parliamentarians will be able to visit Tunisia in the near future in order to find satisfactory solutions to the cases under examination, foster constructive and inclusive dialogue and discuss the matter of the possible provision of IPU assistance to the Tunisian Parliament; and *hopes* to receive a positive response and support from the Assembly of People's Representatives and the Ministry of Foreign Affairs to this end to enable the mission to take place in the best possible conditions;
7. *Requests* the Secretary General to convey this decision to the Speaker of the Assembly of People's Representatives, the complainants and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining the case and to report back to it in due course.

## Venezuela



Maria Corina Machado in a meeting with supporters in Caracas on 22 October 2023. @ Pedro Rances Matthey / ANADOLU / Anadolu via AFP

### VEN-18 – María Corina Machado (Ms.)

#### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of the right to freedom of expression and opinion
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity

#### A. Summary of the case

Maria Corina Machado served as an elected member of the National Assembly of Venezuela from 2011 to 2014. According to the complainant, on 24 March 2014, the then Speaker of the National Assembly announced, reportedly without any discussion in plenary, that Ms. Machado had been stripped of her parliamentary mandate after she had taken part in a meeting on 21 March 2014 held by the Organization of American States (OAS) in Washington DC. Ms. Machado had been invited by Panama to give her account at the OAS meeting of the situation in Venezuela at the time. The Speaker of the National Assembly reportedly said that Ms. Machado had contravened the Constitution by accepting the invitation to act as a Panamanian official at the meeting. The complainant asserts that the decision to revoke Ms. Machado's mandate was taken without any respect for due process and was unfounded in law. Ms. Machado then became the subject of two criminal investigations and was excluded from the parliamentary elections of 6 December 2015, as the authorities claimed that she had presented an inaccurate declaration of assets, which the complainant considers to be untrue and a frivolous excuse to exclude her from the election race. In this context, the Comptroller General took the decision to disqualify Ms. Machado from holding public office for 15 years. According to the complainant, Ms. Machado was never formally notified of this, nor was she given the opportunity to defend herself during the proceedings that led to this decision.

#### Case VEN- 18

**Venezuela:** Parliament affiliated to the IPU

**Victim:** A female opposition member of parliament

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

**Submission of complaint:** February 2013

**Recent IPU decision:** March 2024

**IPU Mission:** August 2021

#### Recent Committee hearing:

- Hearing with members of the National Assembly elected in 2020 at the 173rd session of the Committee on the Human Rights of Parliamentarians (January 2024)

#### Recent follow-up:

- Communication from the authorities: Letter from the Ambassador of Venezuela in Geneva (January 2024)
- Communication from the complainant: August 2024
- Communication to the authorities: Letter to the Ambassador of Venezuela in Geneva: September 2024
- Communication to the complainant: September 2024

Presidential elections took place in Venezuela on 28 July 2024. Ahead of this, several opposition factions organized an internal presidential primary contest to elect a single opposition candidate. On 23 October 2023, Ms. Machado emerged as the opposition's chosen candidate. On 26 January 2024, Venezuela's Supreme Court upheld the Comptroller General's 15-year ban on Ms. Machado from holding public office.

On 19 April 2024, the opposition selected former diplomat Edmundo Gonzalez as its joint presidential candidate, given it was impossible for Ms. Machado to run for office. Ms. Machado continued to campaign on his behalf. According to information received by the IPU, several arrest warrants have been issued against members of Ms. Machado's campaign team, some of whom have been arrested, while others have sought refuge in the Argentine Embassy in Caracas. On 29 July 2024, the National Electoral Council (CNE) announced that President Maduro had been re-elected. The opposition rejected the CNE's announcement, describing it as fraudulent. According to information received by the IPU, Ms. Machado is currently in hiding, facing systematic harassment and threats, including possible detention and trial, under allegedly politically motivated charges.

In a letter sent by the Venezuelan authorities in January 2024, it was stated that there had been no political persecution or other arbitrary actions against former or current parliamentarians. The cases of former parliamentarians that are under investigation, which led to the actions of the competent organs of the Venezuelan State, are based on alleged facts that constitute a violation of the established norms of the Venezuelan legal system, in which the accused enjoy all the legal guarantees established by the Constitution and laws of the Bolivarian Republic of Venezuela. This position was reiterated by a delegation of members of the National Assembly elected in 2020 during a meeting with the Committee on the Human Rights of Parliamentarians in January 2024. The delegation also expressed its willingness to work with the Committee to find solutions to the Venezuelan cases before it. However, the Committee's request for updated and official information on all those cases remains unanswered to date.

## **B. Decision**

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Regrets* the lack of response from the Venezuelan authorities to its recent requests for information and official observations regarding this and other Venezuelan cases before the Committee on the Human Rights of Parliamentarians; *recalls* in this regard that, in accordance with its Rules and Practices, the Committee does everything possible to promote dialogue with national authorities with a view to reaching a satisfactory settlement in the cases before it; and *sincerely hopes* that the competent Venezuelan authorities will engage in regular exchanges of views with the Committee in order to facilitate progress towards a satisfactory resolution of this long-standing case;
2. *Strongly condemns the fact that Ms. Machado was prevented from standing as a candidate in the presidential elections held on 28 July 2024 as a result of a unilateral act by the Comptroller General, a non-judicial authority, and a procedure that did not allow her to exercise her right of defence; recalls* that Ms. Machado had already been prevented from standing as a candidate in the legislative elections of December 2015; and *reiterates its view* that the position taken by Venezuela's Supreme Court on Ms. Machado's ban from holding public office appears to be a continuation of ongoing actions by state institutions to restrict Ms. Machado's rights, which began when she was a prominent opposition member of parliament;
3. *Solemnly reaffirms*, as stated in the IPU's [Universal Declaration on Democracy](#), that the "key element in the exercise of democracy is the holding of free and fair elections ... enabling the people's will to be expressed ... on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness and transparency"; and *expresses its firm hope*, therefore, that the national authorities will urgently take measures to ensure that, in future elections, opposition candidates and their supporters will be allowed to

exercise their basic human right to take part in the conduct of public affairs on a par with the ruling party and its supporters;

4. *Solemnly reaffirms* its stance that the issues in this case are part of the broader complex situation in Venezuela, which can only be resolved through political dialogue and by the Venezuelans themselves; in this regard, *expresses its grave concern* at the allegations received of continued acts of harassment against Ms. Machado, which appear to demonstrate that the long-standing concerns expressed by the IPU in relation to this case have not been addressed by previous efforts of dialogue; *calls on, once again*, all relevant political actors to act in good faith and to commit fully to inclusive political dialogue that will bring about a new social pact through participatory and non-violent means, without foreign interference and in compliance with the State's international human rights commitments; *reaffirms* that the IPU stands ready to assist in these efforts; and *invites the relevant authorities to provide* further official information on how this assistance can best be provided;
5. *Renews its call on* all IPU Member Parliaments, IPU Permanent Observers, relevant human rights organizations and the international community in general to take concrete actions in support of any effort to strengthen democracy in Venezuela in a manner consistent with human rights values and within the boundaries of the principle of non-interference in domestic affairs;
6. *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;
7. *Requests* the Committee to continue examining the case and to report back to it in due course.

## Venezuela



View of the National Assembly building in Caracas, Venezuela © Luis ROBAYO / AFP

- |                                   |  |
|-----------------------------------|--|
| VEN-10 – Biagio Pilieri           | VEN-87 – Juan Pablo García                 |
| VEN-11 – José Sánchez Montiel     | VEN-88 – Cesar Cadenas                     |
| VEN-12 – Hernán Claret Alemán     | VEN-89 – Ramón Flores Carrillo             |
| VEN-13 – Richard Blanco           | VEN-91 – María Beatriz Martínez (Ms.)      |
| VEN-16 – Julio Borges             | VEN-92 – María C. Mulino de Saavedra (Ms.) |
| VEN-19 – Nora Bracho (Ms.)        | VEN-93 – José Trujillo                     |
| VEN-20 – Ismael Garcia            | VEN-94 – Marianela Fernández (Ms.)         |
| VEN-22 – Williams Dávila          | VEN-95 – Juan Pablo Guanipa                |
| VEN-24 – Nirma Guarulla (Ms.)     | VEN-96 – Luis Silva                        |
| VEN-25 – Julio Ygarza             | VEN-97 – Eliezer Sirit                     |
| VEN-26 – Romel Guzamana           | VEN-98 – Rosa Petit (Ms.)                  |
| VEN-27 – Rosmit Mantilla          | VEN-99 – Alfonso Marquina                  |
| VEN-28 – Renzo Prieto             | VEN-100 – Rachid Yasbek                    |
| VEN-29 – Gilberto Sojo            | VEN-101 – Oneida Guanipe (Ms.)             |
| VEN-30 – Gilber Caro              | VEN-102 – Jony Rahal                       |
| VEN-31 – Luis Florido             | VEN-103 – Ylidio Abreu                     |
| VEN-32 – Eudoro González          | VEN-104 – Emilio Fajardo                   |
| VEN-33 – Jorge Millán             | VEN-106 – Angel Alvarez                    |
| VEN-34 – Armando Armas            | VEN-108 – Gilmar Marquez                   |
| VEN-35 – Américo De Grazia        | VEN-109 – José Simón Calzadilla            |
| VEN-36 – Luis Padilla             | VEN-110 – José Gregorio Graterol           |
| VEN-37 – José Regnault            | VEN-111 – José Gregorio Hernández          |
| VEN-38 – Dennis Fernández (Ms.)   | VEN-112 – Mauligmer Baloa (Ms.)            |
| VEN-39 – Olivia Lozano (Ms.)      | VEN-113 – Arnoldo Benítez                  |
| VEN-40 – Delsa Solórzano (Ms.)    | VEN-114 – Alexis Paporoni                  |
| VEN-41 – Robert Alcalá            | VEN-115 – Adriana Pichardo (Ms.)           |
| VEN-42 – Gaby Arellano (Ms.)      | VEN-116 – Teodoro Campos                   |
| VEN-43 – Carlos Bastardo          | VEN-117 – Milagros Sánchez Eulate (Ms.)    |
| VEN-44 - Marialbert Barrios (Ms.) | VEN-118 – Denncis Pazos                    |
| VEN-45 – Amelia Belisario (Ms.)   | VEN-119 – Karim Vera (Ms.)                 |
| VEN-46 – Marco Bozo               | VEN-120 – Ramón López                      |
| VEN-48 – Yanet Fermin (Ms.)       | VEN-121 – Freddy Superlano                 |
| VEN-49 – Dinorah Figuera (Ms.)    | VEN-122 – Sandra Flores-Garzón (Ms.)       |

VEN-50 – Winston Flores	VEN-123 – Armando López
VEN-51 – Omar González	VEN-124 – Elimar Díaz (Ms.)
VEN-52 – Stalin González	VEN-125 – Yajaira Forero (Ms.)
VEN-53 – Juan Guaidó	VEN-126 – Maribel Guedez (Ms.)
VEN-54 – Tomás Guanipa	VEN-127 – Karin Salanova (Ms.)
VEN-55 – José Guerra	VEN-128 – Antonio Geara
VEN-56 – Freddy Guevara	VEN-129 – Joaquín Aguilar
VEN-57 – Rafael Guzmán	VEN-130 – Juan Carlos Velasco
VEN-58 – María G. Hernández (Ms.)	VEN-131 – Carmen María Sivoli (Ms.)
VEN-59 – Piero Maroun	VEN-132 – Milagros Paz (Ms.)
VEN-60 – Juan A. Mejía	VEN-133 – Jesus Yanez
VEN-61 – Julio Montoya	VEN-134 – Desiree Barboza (Ms.)
VEN-62 – José M. Olivares	VEN-135 – Sonia A. Medina G. (Ms.)
VEN-63 – Carlos Papanoni	VEN-136 – Héctor Vargas
VEN-64 – Miguel Pizarro	VEN-137 – Carlos A. Lozano Parra
VEN-65 – Henry Ramos Allup	VEN-138 – Luis Stefanelli
VEN-66 – Juan Requesens	VEN-139 – William Barrientos
VEN-67 – Luis E. Rondón	VEN-140 – Antonio Aranguren
VEN-68 – Bolivia Suárez (Ms.)	VEN-141 – Ana Salas (Ms.)
VEN-69 – Carlos Valero	VEN-142 – Ismael León
VEN-70 – Milagro Valero (Ms.)	VEN-143 – Julio César Reyes
VEN-71 – German Ferrer	VEN-144 – Ángel Torres
VEN-72 – Adriana d'Elia (Ms.)	VEN-145 – Tamara Adrián (Ms.)
VEN-73 – Luis Lippa	VEN-146 – Deyalitza Aray (Ms.)
VEN-74 – Carlos Berrizbeitia	VEN-147 – Yolanda Tortolero (Ms.)
VEN-75 – Manuela Bolívar (Ms.)	VEN-148 – Carlos Prospero
VEN-76 – Sergio Vergara	VEN-149 – Addy Valero (Ms.)
VEN-79 – Mariela Magallanes (Ms.)	VEN-150 – Zandra Castillo (Ms.)
VEN-80 – Héctor Cordero	VEN-151 – Marco Aurelio Quiñones
VEN-81 – José Mendoza	VEN-152 – Carlos Andrés González
VEN-82 – Angel Caridad	VEN-153 – Carlos Michelangeli
VEN-83 – Larissa González (Ms.)	VEN-154 – César Alonso
VEN-84 – Fernando Orozco	VEN-155 – Auristela Vásquez (Ms.)
VEN-85 – Franco Casella	VEN-156 – Ana Mercedes Aponte
VEN-86 – Edgar Zambrano	

### **Alleged human rights violations**

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Violation of freedom of expression and opinion
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity
- ✓ Other violations: Right to privacy



## A. Summary of the case

The case concerns allegations of human rights violations affecting 135 parliamentarians from the coalition of the *Mesa de la Unidad Democrática* (Democratic Unity Roundtable – MUD), against the backdrop of continuous efforts by Venezuela’s executive and judicial authorities to undermine the functioning of the National Assembly elected in 2015. At the time, the MUD coalition was opposed to President Nicolás Maduro’s Government and obtained a majority of seats in the National Assembly in the parliamentary elections of 6 December 2015. New parliamentary elections were held on 6 December 2020.

According to the complainant, almost all parliamentarians listed in the present case have been attacked or otherwise intimidated with impunity by law enforcement officers and/or pro-government officials and supporters. Between 2015 and 2020, at least 11 National Assembly members were arrested, reportedly due to politically motivated legal proceedings against them, and subsequently released. All were detained without due respect for the constitutional provisions on parliamentary immunity. There are also serious concerns regarding respect for due process and their treatment in detention. People associated with opposition parliamentarians have also been detained and harassed. At least 27 parliamentarians were illegally stripped of their parliamentary immunity, some 40 have left the country, allegedly for fear of reprisals for their political activities, 30 are facing legal proceedings, and at least 29 have been barred from holding public office *as a result of a unilateral act* by the Comptroller General – *a non-judicial authority* – *and a procedure that did not allow them to exercise their right of defence*. The passports of at least 13 parliamentarians have been confiscated, not been renewed, or cancelled by the authorities, reportedly as a way to exert pressure and to prevent them from travelling abroad to report what is happening in Venezuela.

On 31 August 2020, President Nicolás Maduro pardoned 110 members of the political opposition who had been accused of committing criminal acts. The decision meant the closure of ongoing criminal proceedings against 26 parliamentarians listed in the present case and the release of four of them.

The complainant states that the harassment of opposition parliamentarians elected in 2015 has continued and intensified after the presidential elections that took place on 28 July 2024. Some of the most recent reported incidents are described below:

- According to the complainant, Venezuelan judges have issued arrest warrants and extradition requests against several former members of parliament, including Mr. Julio Borges and Mr. Juan Guaidó, both former presidents of the National Assembly; Ms. Dinorah Figuera; Ms. Marianela Fernández and Ms. Auristela Vásquez. All of them live in exile. The complainant also reported that on 25 January 2023 the properties of Ms. Figuera and Ms. Vásquez had been seized by the judicial authorities. In September and December 2023, the Committee on the Human Rights of Parliamentarians (CHRP) received detailed information about new death threats and intimidation against former Vice-president of the CHRP, Ms. Delsa Solórzano. In March 2024, the complainant reported that an arrest warrant had been issued against Mr. Omar González, who was a member of the campaign team of the opposition presidential candidate, Ms. María Corina Machado, for allegedly being linked to a destabilization plan to create violence in the country.
- The complainant has also reported the detention of former parliamentarians Ms. Dignora Hernández on 20 March 2024, Mr. Freddy Superlano on 30 July, Mr. Williams Dávila on 8 August, Américo de Grazia on 9 August and Mr. Biagio Pilieri on 28 August. According to the information received, all these former MPs are in detention, with no access to their lawyers, and

### Case VEN-COLL-06

**Venezuela:** Parliament affiliated to the IPU

**Victims:** 135 opposition members of parliament (92 men and 43 women)

**Qualified complainant(s):** Section I (1)(c) of the Committee Procedure (Annex I)

**Submission of complaint:** March 2017

**Recent IPU decision:** March 2024

**IPU mission:** August 2021

#### Recent Committee hearings:

- Hearing with members of the National Assembly elected in 2020 at the 173rd session of the Committee on the Human Rights of Parliamentarians (January 2024)

#### Recent follow-up:

- Communication from the authorities: January 2024
- Communication from the complainant: October 2024
- Communication to the authorities: Letter to the Ambassador of Venezuela in Geneva (September 2024)
- Communication to the complainant: September 2024

have not been informed of the reasons for their detention. In the cases of Ms. Hernández and Mr. Dávila, the complainant informed the Committee that they suffer from serious health problems requiring special care, which they have not received. The Committee also received information on the arrest and subsequent release of former MP Piero Maroun on 16 August 2024, together with several members of his family, including two minors. On 28 August 2024, two other parliamentarians elected in 2015, Mr. Juan Pablo Guanipa and Ms. Solórzano, were allegedly subjected to attempted arrests by groups of unidentified armed individuals. Both are reported to be in hiding.

- In a letter sent by the Venezuelan authorities in January 2024, it was stated that there had been no political persecution or other arbitrary actions against former or current parliamentarians. The cases of former parliamentarians that are under investigation and that have led to the actions of the competent organs of the Venezuelan State are based on alleged facts that constitute a violation of the established norms of the Venezuelan legal system, in which the accused enjoy all the legal guarantees established by the Constitution and laws of the Bolivarian Republic of Venezuela. This position was reiterated by a delegation of members of the National Assembly elected in 2020 during a meeting with the CHRP in January 2024. The delegation also expressed its willingness to cooperate with the Committee in finding solutions to the Venezuelan cases before it. However, the Committee's request for updated and official information on all cases before it remains unanswered to date.

## B. Decision

The Committee

*Decides* to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Regrets* the lack of response from the Venezuelan authorities to its recent requests for information and official observations regarding each of the individual situations before the Committee on the Human Rights of Parliamentarians; *recalls* in this regard that, in accordance with its Rules and Practices, the Committee does everything possible to promote dialogue with national authorities with a view to reaching a satisfactory settlement in the cases before it; *sincerely hopes* that the competent Venezuelan authorities will engage in regular exchanges of views with the Committee in order to facilitate progress towards a satisfactory resolution of this long-standing collective case;
2. *Remains deeply concerned* by reports that the various human rights violations committed against the parliamentarians listed in the present case, while they were members of parliament and as a result of their work in the parliamentary opposition, seem to remain unpunished; *recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further human rights violations, and that abuses against members of parliament, irrespective of their opinions, when left unpunished, not only violate the fundamental rights of individual parliamentarians and of those who elected them, but also affect the integrity of parliament and its ability to fulfil its role as an institution; *urges* the competent Venezuelan authorities to take concrete actions in support of the resolution of this case in a manner consistent with the respect for democratic values and human rights; and *wishes* to receive official and detailed information on any steps taken in this regard;
3. *Solemnly reaffirms* its stance that the issues in this case are part of the broader complex situation in Venezuela, which can only be resolved through political dialogue and by the Venezuelans themselves; in this regard, *expresses its grave concern* at the allegations received of continued intimidation, persecution, arbitrary detention, threats, restrictions on political rights and other acts of harassment against members of the political opposition, including former parliamentarians, which appear to demonstrate that the long-standing concerns expressed by the IPU in relation to the cases referred to the Committee have not been addressed by previous efforts of dialogue; *calls on*, once again, all relevant political actors to act in good faith and to commit fully to inclusive political dialogue that will bring about a new social pact through

participatory and non-violent means, without foreign interference and in compliance with the State's international human rights commitments; *reaffirms* that the IPU stands ready to assist with these efforts; and *invites the relevant authorities to provide* further official information on how this assistance can best be provided;

4. *Renews its call on* all IPU Member Parliaments, IPU Permanent Observers, relevant human rights organizations and the international community in general to take concrete actions in support of any effort to strengthen democracy in Venezuela in a manner consistent with human rights values and within the boundaries of the principle of non-interference in domestic affairs;
5. *Requests* the Secretary General to convey this decision to the competent Venezuelan authorities, the complainant and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining the case and to report back to it in due course.

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