



Inter-Parliamentary Union
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146th IPU Assembly

Manama (11–15 March 2023)

Governing Council
Item 14(c)

CL/211/14(c)-R.2
Manama, 15 March 2023

Committee on the Human Rights of Parliamentarians

*Decision adopted by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*

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Cambodia

*Decision adopted by consensus by the IPU Governing Council at its 211th session
(Manama, 15 March 2023) ¹*



Former Cambodia National Rescue Party (CNRP) leader Kem Sokha arrives at the Phnom Penh municipal court for his trial in Phnom Penh on 22 January 2020. TANG CHHIN Sothy/AFP

KHM-48 - Mu Sochua (Ms.)
KHM-49 - Keo Phirum
KHM-50 - Ho Van
KHM-51 - Long Ry
KHM-52 - Nut Romdoul
KHM-53 - Men Sothavarin
KHM-56 - Kong Sophea
KHM-57 - Nhay Chamroeun
KHM-58 - Sam Rainsy
KHM-59 - Um Sam Am
KHM-60 - Kem Sokha
KHM-62 - Chea Poch
KHM-65 - Dam Sithik
KHM-66 - Dang Chamreun
KHM-67 - Eng Chhai Eang
KHM-68 - Heng Danaro
KHM-69 - Ke Sovannroth (Ms.)
KHM-72 - Khy Vannbeth
KHM-73 - Kimsour Phirith

KHM-76 - Ky Wandara
KHM-78 - Lim Bun Sidareth
KHM-79 - Lim Kimya
KHM-80 - Long Botta
KHM-82 - Mao Monyvann
KHM-83 - Ngim Nheng
KHM-84 - Ngor Kim Cheang
KHM-86 - Ou Chanrith
KHM-87 - Pin Ratana
KHM-90 - Sok Umsea
KHM-91 - Son Chhay
KHM-92 - Suon Rida
KHM-93 - Te Chanmony (Ms.)
KHM-94 - Tioulong Saumura (Ms.)
KHM-95 - Tok Vanchan
KHM-96 - Tuon Yokda
KHM-99 - Vann Narith
KHM-101 - Yim Sovann
KHM-102 - Yun Tharo

¹ The delegation of Cambodia expressed its reservations regarding the decision.

Alleged human rights violations

- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Abusive revocation of the parliamentary mandate
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings and excessive delays
- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of movement
- ✓ Threats, acts of intimidation
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Impunity
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention

A. Summary of the case

On 16 November 2017, the Supreme Court dissolved the sole opposition party in Cambodia, the Cambodian National Rescue Party (CNRP). It also banned 118 CNRP members (including all 55 CNRP members of the National Assembly) from political life for five years with no possibility of appeal. Their parliamentary mandates were immediately revoked, and their seats reallocated to non-elected political parties allegedly aligned to the ruling party. The Supreme Court decision was based on charges of conspiracy with a foreign country to overthrow the legitimate government brought against the President of the CNRP, Mr. Kem Sokha.

Seventeen former parliamentarians subsequently fled Cambodia and went into exile. The dissolution of the CNRP left the ruling Cambodian People's Party (CPP) – and Prime Minister Hun Sen – with no viable challengers in the February and July 2018 elections to the Senate and National Assembly.

The dissolution of the CNRP took place against the backdrop of long-standing and repeated threats and groundless criminal charges against its members of parliament. They had been repeatedly warned by the Prime Minister that their only choice was to join the ruling party or be prepared for the dissolution and ban of their party.

Mr. Kem Sokha, who became CNRP Acting President after its President, Mr. Sam Rainsy, went into exile in 2015, is accused of attempting to topple the Government on the basis of a 2013 speech he made on television in which he called for peaceful political change in Cambodia, without at any point inciting violence or hatred or uttering defamatory words. Mr. Kem Sokha, who is currently on bail, faces a 30-year prison term on treason charges and is reportedly banned from taking part in political life, as well as from leaving Cambodia. Mr. Kem Sokha's trial began in January 2020, but was suspended in March 2020 and resumed only in January 2022. On 3 March 2023, the Phnom Penh Municipal Court found him guilty of treason and sentenced him to a 27-year prison sentence to be served in the form of house arrest, and indefinitely suspended his political rights to vote and to stand for election.

Seventeen other parliamentarians, who have all been forced into exile abroad, had previously been sentenced in one or more of the following mass trials against CNRP members in the last two years:

Ruling of 14 June 2022 – plotting and incitement: This ruling concerns 60 CNRP politicians and supporters, including 12 former CNRP leaders who were convicted *in absentia* on charges of plotting and incitement and were handed prison sentences of eight years. This case relates to Mr. Rainsy's failed attempt to return to Cambodia in November 2019 and the alleged plan to gather supporters both in the country and overseas to accompany him, as well as the establishment of the Cambodia National Rescue Movement abroad. The evidence mostly comprised Facebook posts expressing support for the former opposition party or democratic principles. No clear links were apparently made between the admitted evidence, each individual defendant and each element of the charges, and the judge reportedly failed to provide any reasoning in the decision.

Case KHM-Coll-03

Cambodia: Parliament affiliated to the IPU

Victims: 38 former opposition parliamentarians (34 male and four female)

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

Submission of complaint: November 2011

Recent IPU decision: October 2022

IPU mission: February 2016

Recent Committee hearing: Hearings with the Cambodia delegation to the 146th IPU Assembly (March 2023)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the National Assembly (March 2023)
- Communication from the complainant: September 2022
- Communication to the authorities: Letter to the Secretary General of the National Assembly (March 2023)
- Communication to the complainant: March 2023

Ruling of 17 March 2022 on charges of plotting, incitement and inciting military personnel to disobedience: This ruling concerns 21 senior CNRP leaders, including seven CNRP parliamentarians, as well as their supporters. The trial covered multiple issues, including the formation of the overseas Cambodia National Rescue Movement in 2018 and critical comments made by former CNRP officials about the COVID-19 pandemic. In court, several accused recanted their prior testimonies, alleging they were given under duress. The seven parliamentarians were found guilty of the charges and sentenced *in absentia* to 10 years in prison.

Ruling of 1 March 2021 – plotting and incitement: The case concerns nine CNRP leaders, all CNRP parliamentarians, who were found guilty of carrying out an attack against Cambodian institutions or territorial integrity, with the Prosecution accusing the group of an attempted coup as it presented evidence of speeches about raising funds to support defecting soldiers. The members of parliament were sentenced *in absentia* to 20 to 25 years in prison and stripped of their right to vote, stand for election or be a public official, and were ordered to pay a sizeable fine.

With regard to these trials, the United Nations (UN) Special Rapporteur on the human rights situation in Cambodia, in his report of 18 August 2022 (A/HRC/51/66), stated that: “Mass trials, particularly of individuals from the main opposition party and those seen to be antithetical to the dominant power base, have caused great concern and stifled the possibility of political pluralism [...] Irregularities inherent in these trials include the lack of credible evidence, failings concerning respect for fair trial rights and due process guarantees, and the fact that several of the so-called accused are being tried *in absentia* in breach of human rights guarantees”.

With regard to the independence and transparency of the judiciary and prosecutors, the Special Rapporteur stated in the same report that, “This is a long-standing issue referred to decades ago in earlier United Nations resolutions on Cambodia. There is a more recent turn, however, in that some judicial and related personnel have close links with the political party in power; for instance, they might sit on various key committees of the party”.

Among a series of recommendations, the Special Rapporteur suggested that the Cambodian authorities “open up the political and civil space in preparation for the national elections in 2023, in particular to ensure a genuine multiparty system, free and fair elections, checks and balances against power abuse, and guarantees for people’s participation and shared power; [...] suspend and reform laws, policies and practices that are antithetical to human rights, including the State of Emergency Law, [...], various laws impeding freedom of expression, other freedoms and the work of NGOs, and laws on political parties and related elections; open up to political pluralism and ensure the separation of powers and functions, especially in order to safeguard the judiciary from executive seepage”.

Similarly, the UN Human Rights Committee, which supervises the implementation of the International Covenant on Civil and Political Rights to which Cambodia is a party, in its concluding observations adopted at its 134th session (28 February–25 March 2022), echoed these findings and recommendations in great detail.

On 7 October 2022, the Phnom Penh Court sentenced Mr. Son Chhay, a former member of the CNRP and now the Vice-President of the opposition Candlelight Party, in two cases to pay the CPP and the National Election Committee 3 billion riels and 17 million riels (US\$ 754,250) in damages, having found him guilty of defamation for saying that voting fraud had occurred during the June 2022 commune elections, allegations that were supported and substantiated by other entities at the national and international levels. On 16 January 2023, Mr. Thach SETHA, Vice-President of the Candlelight Party, was arrested over complaints of having written bad cheques, an accusation he denied and considers to amount to intimidation.

On 19 October 2022, Mr. Rainsy was sentenced to life imprisonment, allegedly for trying to cede four Cambodian provinces to a foreign state. The conviction and sentence referred to Mr. Rainsy’s meeting in the United States in 2013 with the Montagnard Foundation, an organization that works to protect the rights of indigenous minorities in Viet Nam. Mr. Rainsy had promised to defend the rights of Cambodian indigenous people during the meeting. He has since dismissed the charges and sentence as bogus saying that he had not ceded territory to any country but only recognized the rights of the indigenous people called Khmer Leu in the north-east of Cambodia.

In a hearing with the CHRP, the leader of the Cambodian delegation to the 146th IPU Assembly (March 2023) renewed the invitation to the CHRP to send a delegation to Cambodia to discuss its concerns and questions with all relevant stakeholders. He stated that much progress had been made in Cambodia to uphold liberal democracy, pointing out, among other things, that 45 political parties had registered with the Ministry of the Interior and most parties have shown their interest in participating in the elections for the National Assembly, scheduled for 23 July 2023, that 17 political parties had won seats in the June 2022 local elections, hence ensuring political pluralism, and that over a thousand media outlets were operating in Cambodia. Regarding the recent revocation of the licence of the Voice of Democracy, considered to be one of the few remaining independent media outlets in Cambodia that reports on sensitive issues, the leader of the Cambodian delegation said that, recently, the media outlet had reported erroneously on a matter whereby it had broken the law and, consequently, its licence was revoked.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the leader of the Cambodian delegation for the information provided and his spirit of cooperation;
2. *Is pleased* to learn that the invitation extended by the leader of the Cambodian delegation for an IPU delegation to travel to Cambodia to discuss its long-standing concerns in this case is still in place; *regrets*, nevertheless, that since the invitation was first formulated in November 2021 no concrete progress has been made towards identifying dates that suit the Cambodian authorities; and *sincerely hopes* that they can swiftly provide the necessary clarity so that the mission can take place well before the forthcoming elections for the National Assembly;
3. *Is deeply concerned* about the sentencing of Mr. Sokha to a lengthy prison term to be served in the form of house arrest; and *recalls* in this regard that the main evidence provided against Mr. Kem Sokha are videos of a 2013 speech in which he at no point incited hatred or violence or uttered defamatory words but, rather, emphasized that he was aiming to bring political change by winning the elections;
4. *Is also deeply concerned* that Mr. Rainsy was recently sentenced to life imprisonment allegedly in connection with work he did to promote the rights of indigenous groups in Cambodia; *questions* the factual and legal basis for his conviction and sentence; and *wishes to receive* all the necessary details from the Cambodian authorities in this regard;
5. *Considers* that these developments have to be seen in the context of other serious steps taken in recent years against the opposition, in particular the mass trial verdicts in 2021 and 2022 that are preventing the affected 17 senior CNRP parliamentarians from freely returning to Cambodia and taking part in the electoral process, and the actions taken against leaders of the Candlelight Party, most notably the defamation verdict against Mr. Chhay, with crippling effects on freedom of speech;
6. *Stresses* that the mission to Cambodia provides an excellent and timely opportunity to discuss these matters with the Cambodian authorities against the backdrop of the forthcoming elections for the National Assembly and the need for them to be truly free and fair, and inclusive of all voices in Cambodian society; *expresses the hope* that for this purpose the authorities will also resume political dialogue urgently with all opposition parties, both in and outside of Cambodia, and *urges* them to do so, in the belief that this is indispensable to help build trust and find solutions to the current political situation;
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 help with the successful organization of the mission;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Democratic Republic of the Congo

**Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)**



© Papy Niango Iziamay Munshemvula

COD-151 – Papy Niango Iziamay Munshemvula

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Right of appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Abusive application of parliamentary sanctions
- ✓ Other

A. Summary of the case

On 15 June 2022, the mandate of Mr. Papy Niango Iziamay Munshemvula (Mr. Niango), an opposition member of parliament at the time of the alleged facts, was invalidated for absenteeism following a report issued by an *ad hoc* special committee created on 28 April 2022 and tasked with examining reports of unauthorized and unjustified absences at National Assembly plenary sittings by several members of parliament, including Mr. Niango.

According to the complainant, the criteria that the special committee was meant to take into account in assessing which cases of absence should be sanctioned and which should not, including cases of absence for medical reasons, as in Mr. Niango's case, had not been clearly established. Mr. Niango reportedly tested positive for COVID-19 in January 2021 and his condition stabilized at the end of February of the same year. A certificate dated 1 March 2021 from the Department of Internal Medicine of the Faculty of Medicine of the University of Kinshasa states that he that he "was admitted to specialist consultations in cardiovascular diabetology at the University Clinics of Kinshasa, for a serious medical problem". The certificate shown recommended medical rest of three months, until 30 May 2021, and from 10 October to 26 November. After the end of his first medical rest period, Mr. Niango was unable to resume his parliamentary activities, as his health remained fragile. Another medical certificate dated

Case COD-151

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: An opposition member of parliament

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

Submission of the complaint: October 2022

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: February 2023
- Communication to the authorities: February 2023
- Communication to the complainant: February 2023

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28 April 2022 stated that Mr. Niango had been hospitalized at the Kinshasa Medical Centre from 7 to 15 November 2021 and that his state of health upon discharge from the hospital required medical rest of 14 days, from 16 to 29 November 2021.

After receiving an invitation from the special committee, Mr. Niango reportedly appeared before its members on 28 April 2022, armed with the justifications for his absence from the plenary sittings of the National Assembly for the above-mentioned health reasons. Mr. Niango was heard by the said committee on the same occasion, which made no negative comments regarding his defence and the supporting documents that he had presented during his hearing. On 29 April 2022, Mr. Niango sent a letter to the chair of the special committee reminding him of the reasons for his absences and providing the required supporting documents.

Despite the medical certificates provided, the special committee recommended the invalidation of Mr. Niango's parliamentary mandate for absenteeism in a report that it reportedly did not forward to him. Moreover, this report was purportedly not circulated within the National Assembly, thus preventing a proper examination of the committee's deliberations. On 15 June 2022, the Bureau of the National Assembly reportedly examined the special committee's report during a plenary session held *in camera* and decided to invalidate Mr. Niango's mandate in accordance with the provisions of rule 95(6) of the Standing Orders of the National Assembly, which stipulates that "the mandate of a member of parliament is terminated by unjustified and unauthorized absence from more than one quarter of the sittings of a session". On 22 June 2022, Mr. Niango's lawyer reportedly made an official request to receive a copy of the report that had led to the invalidation of the former member of parliament's mandate. On 25 June 2022, the rapporteur of the National Assembly acknowledged receipt of this request, stating that, "*given that this matter is within the jurisdiction of another body, I will unfortunately not be able to grant your request*".

According to the complainant, the National Assembly invalidated Mr. Niango's mandate in violation of Articles 19(3) and 61 of the Constitution, which guarantee the rights of defence, insofar as the National Assembly adopted the conclusions of the special committee's report without having first heard Mr. Niango. The National Assembly also allegedly decided to submit the invalidation of Mr. Niango's mandate to voting by a show of hands, in disregard of rule 93(3) of the Standing Orders of the National Assembly, which stipulates that "in the event of deliberations concerning individuals, the vote shall be by secret ballot".

The invalidation procedure and the creation of the special committee to examine Mr. Niango's unjustified absences are said to be an attempt to silence him and several other opposition members and are part of repressive measures taken against them. Mr. Niango has also initiated a petition against the Speaker of the National Assembly for poor conduct of discussions and disorder in the functioning of parliamentary committees and groups. The impeachment motion was reportedly signed by 132 members of parliament but was not tabled because the National Assembly mail service was apparently closed. The tensions linked to the invalidation of the mandate of Mr. Niango and other parliamentarians and the threats made by the Speaker of the National Assembly against them also reportedly prevented the filing of the petition.

Mr. Niango lodged an appeal with the Bureau of the National Assembly against the decision to invalidate his mandate. No action was reportedly taken following this appeal. Mr. Niango has not been a member of parliament since the Democratic Republic of the Congo parliamentary elections in July 2022.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes that the complaint concerning the case of Mr. Papy Niango Iziamay Munshemvula (Mr. Niango) 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 an incumbent member of parliament at the time of the initial allegations; and (iii) concerns threats, acts of intimidation, lack of due process at the*

investigation stage, lack of right of appeal, violation of freedom of opinion and expression, abusive revocation or suspension of the parliamentary mandate, and abusive application of parliamentary sanctions, and other violations, allegations that fall under the Committee's mandate;

2. *Regrets* the lack of response from the parliamentary authorities concerning Mr. Niango's case; and *invites* the authorities to provide their observations in this case;
3. *Is concerned* at the allegation that the report of the special committee tasked with examining cases of unauthorized and unjustified absences was not forwarded to the complainant, thus depriving him of his right to know the exact grounds for the decision to recommend the invalidation of his mandate in the National Assembly; also *wonders why* the National Assembly is not sharing the report drawn up by the special committee with Mr. Niango; therefore *wishes* to receive a copy of the report in order to understand the reasons behind the invalidation of Mr. Niango's parliamentary mandate and the exact periods of absence in question;
4. *Notes with concern* the complainant's allegations that the invalidation of Mr. Niango's parliamentary mandate is linked to his open opposition to the Speaker of the National Assembly and to the impeachment motion he initiated against him; *stresses* that the invalidation of the parliamentary mandate should be in accordance with a clear procedure that complies with the provisions of the Standing Orders of the National Assembly and constitutional principles; and *calls on* the parliamentary authorities to examine Mr. Niango's appeal as soon as possible and to provide the requisite remedies if the alleged violations are proven;
5. *Notes* that Mr. Niango's situation is not an isolated case insofar as cases of invalidation for various reasons have already been submitted to the Committee in the past and continue to be examined by it; *also notes* that his case is part of a hostile political context *vis-à-vis* dissenting opposition voices; and *encourages* the Congolese authorities in this election year, when tensions may lead to further violations against members of the opposition, to take all necessary steps to guarantee the fundamental rights of all members of the National Assembly, former and current, irrespective of their political affiliation, in order to ensure that invalidation of the parliamentary mandate is not used to dismiss members for their political ideas;
6. *Requests* the Secretary General to convey this decision to the relevant authorities, 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

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



Crispin Ngbundu Malengo



Martin Kabuya Mulamba-Kabitanga

COD-152 – Martin Kabuya Mulamba-Kabitanga
COD-153 – Crispin Ngbundu Malengo

Alleged human rights violations

- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

Mr. Martin Kabuya Mulamba-Kabitanga and Mr. Crispin Ngbundu Malengo were elected in the legislative elections held in December 2018. Upon accepting positions as provincial governors, deemed incompatible with their parliamentary mandates, they were reportedly suspended in April 2019 and replaced by their alternates.

In June and December 2020, Mr. Malengo and Mr. Kabuya were stripped of their governorship. Believing that the motions of impeachment against them were unfounded, the two governors filed a complaint with the Constitutional Court. In January and March 2021, the Constitutional Court dismissed Mr. Kabuya and Mr. Malengo who, having officially lost their governorships, initiated a procedure to be reinstated in their parliamentary functions. To this end, on 13 July 2021, legal counsel for the former members of parliament lodged a submission with the Constitutional Court requesting it to interpret the meaning and scope of paragraphs 1, 2 and 3 of Article 110 of the Constitution of 18 February 2006, amended by Law No. 11/002 of 20 January 2011, which list situations requiring the suspension of a parliamentary mandate, the acceptance of a political function that is incompatible with the exercise of a parliamentary mandate being one such situation.

On 1 March 2022, the Constitutional Court issued its ruling No. 1606 in which it clarified its position on the suspension of mandates saying that the latter “applies to any acceptance of an incompatible political office, whether elective or nominative, as envisaged under the Constitution amended on

Case COD-COLL-03

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victims: Two majority members of parliament

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

Submission of the complaint: October 2022

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: February 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2023)
- Communication to the complainant: February 2023

20 January 2011. In this case, therefore, the parliamentarian whose mandate had been suspended can be reinstated immediately and rightfully in parliament, provided that during this same legislature, as provided in paragraph 6 of the interpreted article, the said parliamentarian or alternate has not deliberately left the political party on behalf of which they had obtained their mandate". Thus, in its ruling No. 1606 of 1 March 2022, the Constitutional Court definitively ruled on the right of the two members of parliament to resume their parliamentary mandates stating that "the members of parliament whose mandates have been suspended must take up their place in parliament". The complainants pointed out that, according to Article 168(1) of the Constitution, "The judgments of the Constitutional Court are not subject to appeal and are immediately enforceable. They are binding on the public authorities, on all administrative and judicial, civil and military authorities and on private individuals". Reportedly, however, the parliamentary authorities have not enforced the Constitutional Court's ruling No. 1606.

According to the documents submitted by the complainants, in a letter dated 14 March 2022 addressed to Mr. Kabuya, the Speaker of the National Assembly acknowledges the Constitutional Court's ruling. However, although the parliamentary authorities had taken note of the Constitutional Court's ruling on the right to resume their parliamentary mandates, the two former members of parliament were reportedly unable to sit in the National Assembly and did not receive their allowances.

Following the legislative elections in the Democratic Republic of the Congo in July 2022, Mr. Kabuya and Mr. Ngbundu are no longer members of parliament.

B Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Martin Kabuya Mulamba-Kabitanga and Mr. Crispin Ngbundu Malengo 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 two incumbent members of parliament at the time of the alleged facts; (iii) concerns excessive delays, violation of freedom of opinion and expression, violation of freedom of assembly and association, and other acts obstructing the exercise of the parliamentary mandate, allegations which fall under the Committee's mandate;
2. *Regrets* the lack of response from the parliamentary authorities concerning the cases of Mr. Kabuya and Mr. Ngbundu; and *invites* the authorities to provide their observations in these cases;
3. *Takes note* of Constitutional Court Ruling N° 1606 of 1 March 2022, which ruled in favour of the reinstatement of former members of parliament in their parliamentary functions insofar as the political function they held had indeed ended while their parliamentary mandate was still valid; and *notes with concern* that the said ruling has not been executed despite the fact that the parliamentary authorities were allegedly notified thereof by the complainants and despite the immediate enforceability of Constitutional Court's rulings;
4. *Wishes* to receive information on the reasons that have prevented the parliamentary authorities from implementing the Constitutional Court's ruling by terminating the suspension of the two former members of parliament and paying them their exit allowances; and *calls on* the parliamentary authorities to ensure that Mr. Kabuya and Mr. Ngbundu obtain redress for the damage suffered;
5. *Notes* that Mr. Kabuya's and Mr. Ngbundu's situation are not isolated cases insofar as cases of invalidation for various reasons have already been submitted to the Committee in the past and continue to be examined by it; *also notes* that their cases are part of a hostile political context that is hostile *vis-à-vis* opposition voices; and *encourages* the Congolese authorities in this election year, when tensions may lead to further violations against certain members of the National Assembly, to take all necessary measures to guarantee the fundamental rights of all its members, former and current, irrespective of their political affiliation, in order to ensure that the

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invalidation of the parliamentary mandate is not used to dismiss members of parliament for their political ideas;

6. *Requests* the Secretary General to convey this decision to the relevant authorities, 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.

Eswatini

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



Members of the Royal Eswatini Police Service monitor affiliates of the Trade Union Congress of Eswatini (TUCOSWA) as they chant 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 Mduduzi Bacede Mabuza and Mthandeni Dube were arrested in the evening of 25 July 2021 and have been held in detention ever since, first at Mbabane police station and then at the Matsapha Correctional Centre. A third parliamentarian, Mr. Mduduzi Simelane, fled the country before an arrest warrant could be implemented. Mr. Mabuza and Mr. Dube face charges under the Suppression of Terrorism Act, two murder charges and a charge for contravening COVID-19 regulations. The accused made bail applications on 6 August and 16 November 2021, which were both rejected. A final bail application was dismissed on 15 December 2022. On 31 January 2023, the defence and the Crown prosecutor made final submissions after which the judge in the case reserved judgement.

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

Submission of complaint: January 2022

Recent IPU decision: October 2022

Recent IPU mission: Trial observation (November and December 2022)

Recent Committee hearing: Hearing with the delegation of Eswatini to the 145th IPU Assembly in Kigali (October 2022)

Recent follow-up:

- Communications from the authorities: Letters from the Speaker of the House of Assembly (March 2023)
- Communication from the complainant: September 2022
- Communication to the authorities: Letter to the Speaker of the House of Assembly (February 2023)
- Communication to the complainant: February 2023

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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, were lamenting the Government's reported failure to deliver basic services to its citizens, demanded responses to socioeconomic challenges, and invoked alleged ill-treatment by police. Petitions were delivered to various *tinkhundla* centres, 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.

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.

Mr. Rahim Kahn, a distinguished attorney and former acting chief magistrate in Botswana with over 40 years of legal experience, was designated 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.

In his report, the trial observer states that, "[T]he basis of the charges were statements made by the two accused persons in which they encouraged members of the public to deliver petitions, and to reject the appointment of the acting Prime Minister. Neither of the accused persons explicitly encouraged or incited any acts of violence but were arrested on charges of acts of terrorism and sedition because they expressed a lack of support for the appointment of the acting Prime Minister. They expressed an opinion which proved to be controversial but they neither encouraged violence nor incited public displays of disobedience. Their arrest and detention was an infringement of their constitutional rights to freedom of thought and conscience". The trial observer furthermore states that, "[T]he two accused persons made statements at a public gathering in which they expressed their opinions on the acting Prime Minister. These opinions did not include explicitly hateful speech, nor explicit incitement of acts of public disorder or acts of terrorism. Therefore, their arrest and detainment on the basis of these statements was essentially punishment for their exercise of the rights to freedom of expression and opinion".

The trial observer furthermore states that, "It is submitted that the present matter has similarly also not been properly handled. It was within the State's authority to arrest and detain the two accused persons for making statements which the authorities believed to be detrimental to public stability and contributing towards acts of terrorism, acts of sedition and other acts of violence. However, the delay between the accused's detention and their first opportunity to make an application for bail was an infringement of their right to personal liberty and freedom of movement. Furthermore, the nature of their statements did not justify their detention for 15 months in the interim between their arrest and the adjudication upon their matter. It is submitted that their arrest and extended detention was an infringement of their rights to freely express themselves, and their right not to be arbitrarily detained".

The trial observer moreover points out that, "[T]he two members of parliament have been denied bail essentially as they are considered flight risks, notwithstanding their official positions as members of parliament, have fixed assets in the country, have clean records, have not interfered with witnesses and are willing to offer a sum of money to secure their attendance. Whilst it is true that Mr. Simelane, another accused, fled the country, the two members of parliament have emphasized that they wished to stand trial and complete the proceedings. It appears extremely surprising that their bail has been consistently refused. This repeated denial of bail is a violation of their constitutional rights and they

should be allowed bail to prepare in a better environment. This principle has never been emphasized in this matter. At no stage during the proceedings did the judge ever refer to the inconvenience, the violation of the Constitution or the great prejudice suffered by the accused in the interminable delays of the prosecution”.

In his general comments and assessment of the trial, the trial observer states that, "the trial is being continuously postponed, mainly at the instance of the Crown", and that the judge "does not direct any detailed questions to the Crown...and grants them far too much latitude to conduct the trial as they wish. Applications for postponement are granted without establishing their necessity and in all of these delays, it is the accused who are being prejudiced by the constant delays". Moreover, the trial observer points out that, "there is no urgency in the manner in which [the judge] conducted the trial. Hearings are set on the day but rulings are reserved to a postponed day, often with no reasons. In addition, in two instances, [the judge] does not deliver a reasoned judgment but hereby hands down an order. This is again a very disturbing feature of [the judge's] conduct of the trial".

The Speaker of the House of Assembly has stated that the parliamentary immunity of the three parliamentarians with regard to speeches in connection with debates and proceedings in parliament had always been respected. The Speaker also stated that the prison conditions of Mr. Mabuza and Mr. Dube were the same as those of other trial inmates and that they had been granted all the general benefits extended to inmates awaiting trial. He added that, as the matter was before the court, due to the separation of powers he could not comment on the specific charges.

In the early hours of 22 September 2022, the two detained parliamentarians were allegedly assaulted by prison guards who entered their cells and started beating them up for no reason. According to the Speaker, an inquiry into the matter has been opened in accordance with the Correctional Services Act, No. 13 of 2017, read in conjunction with the Prison Regulations of 1965. The Speaker stated that, "We are eager for the resultant recommendations and further action which the inquiry may further recommend. The legal processes have not been finalized and we hope that the above allegations shall be adequately addressed".

In response to the IPU's wish to send a delegation from the Committee on the Human Rights of Parliamentarians to Eswatini, at a hearing held at the 145th IPU Assembly in October 2022 the Speaker responded that he would welcome such a delegation. Subsequent attempts by the IPU to organize the mission have not yet borne fruit with the Eswatini authorities, who indicated early on that important national events prevented them from receiving the mission before the end of the first half of 2023. In response to the most recent IPU letter about the matter, on 5 March 2023 the Speaker stated in writing that, "The concern of the IPU Committee on the Human Rights of Parliamentarians is acknowledged and appreciated. The Parliament of the Kingdom of Eswatini is currently addressing a decision of SADC Heads of States on the same matter. It is our well-considered view that the IPU Committee shares similar sentiments with the SADC Troika and therefore would be satisfied to receive a report detailing all processes to be undertaken towards our national dialogue. Suffice to mention that some major processes and commitments are already ongoing. It is against this background that we kindly request your indulgence in bearing with us on this issue".

On the night of 21 January 2023, Eswatini human rights defender and lawyer, Mr. Thulani Maseko, was shot dead at his home by unknown assailants. 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 calling for constitutional reform in Eswatini. His assassination occurred on the same day the King of Eswatini made a veiled threat against members of the country's pro-democracy movement.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of the House of Assembly for his recent letters and continued cooperation, including with regard to the fulfilment of Mr. Rahim Kahn's trial observation mission;
2. *Thanks* Mr. Rahim Kahn for carrying out this mission and for his comprehensive report;

3. *Is deeply concerned* over the several deficiencies identified in the trial observer's report in the handling of the legal proceedings brought against Mr. Mabuza and Mr. Dube, in particular the excessive and unjustifiable delays in the proceedings and the repeated denial of bail, and that the report gives serious weight to the accusation made by the complainant that the criminal case merely came in response to the parliamentarians' public appeal to strengthen democracy, which falls squarely within the legitimate exercise of their right to freedom of expression; *is led to believe*, therefore, that both men should never have been detained and prosecuted in the first place; *trusts* that the judge in the case will carefully and critically assess what evidence, if any, exists in support of the charges and will quickly adopt a verdict; and *is eager* to be kept informed of developments in this regard;
4. *Trusts* that a thorough and independent investigation into the alleged assault in September 2022 of the two parliamentarians in detention has since been carried out and completed; and *wishes* to ascertain if this is indeed the case and what conclusions the investigation has reached;
5. *Notes with great interest* the efforts made within the context of SADC to resolve the political challenges and promote national dialogue in Eswatini; and *affirms* that the IPU stands ready to provide any assistance that may be considered useful in this regard;
6. *Sincerely believes* that, over and above ongoing and new efforts to strengthen democracy in Eswatini, a mission by the IPU Committee on the Human Rights of Parliamentarians, which would include meetings with all the relevant authorities, a meeting with the two members of parliament and their lawyers, along with meetings with relevant third parties, would offer a useful opportunity to discuss the issues that have emerged in the case at hand and to examine possible solutions; *sincerely hopes*, therefore, that the Eswatini authorities will soon be able to receive this mission; and *requests* the Secretary General to continue to engage with the parliamentary authorities of Eswatini with a view to the dispatch of the mission in the coming months;
7. *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;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Iraq

**Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)**



Mr. Al-Alwani five weeks after his sentencing, photo dated 2 January 2015
© Photo courtesy Mr. Ahmed Jamil Salman Al-Alwani's family

IRQ62 – Ahmed Jamil Salman Al-Alwani

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Failure to respect parliamentary immunity
- ✓ Lack of fair trial proceedings

A. Summary of the case

Mr. Al-Alwani was arrested on 28 December 2013 during a raid conducted by Iraqi security forces on his home in Ramadi, in the Al-Anbar Governorate. The complainants believe that Mr. Al-Alwani's arrest was in retaliation for his outspoken support of the grievances of the Sunni population and his vocal opposition to the Iraqi Prime Minister at the time, Mr. Nouri Al-Maliki. The case of Mr. Al-Alwani has also to be seen against the backdrop of sectarian tension and violence in the country.

According to the complainants, Mr. Al-Alwani was initially held in secret detention centres, was exposed to ill-treatment and torture, did not receive a fair trial and saw his right to mount an adequate defence violated. The United Nations Working Group on Arbitrary Detention confirmed these allegations in its 2017 report (Opinion No. 36/2017), particularly following Mr. Al-Alwani's conviction in 2014 for murder and incitement to sectarian violence and his sentencing in 2016 to the death penalty under the Anti-Terrorism Law. Mr. Al-Alwani's lawyers have appealed the court rulings, which are still under review in cassation proceedings, as confirmed by the complainants and the President of the Supreme Judicial Council. Under the General Amnesty Law No. 27 of 2016, Mr. Al-Alwani submitted applications for pardon in three cases, which were subsequently rejected.

Case IRQ-62

Iraq: Parliament affiliated to the IPU

Victim: A male opposition member of parliament

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

Submission of complaint: December 2013

Recent IPU decision: November 2021

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Iraqi delegation during the 146th IPU Assembly (March 2023)

Recent follow up:

- Communications from the authorities: Message from the Department of Public Relations and Parliamentary Protocols (July 2022); letter from the Deputy Secretary General conveying a letter from the Ministry of Justice (June 2022)
- Communication from the complainants: October 2022
- Communications to the authorities: Letters to the Speaker of the Council of Representatives (February 2023)
- Communication to the complainants: October 2022

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The complainants stated that, in November 2020, a parliamentary delegation reportedly visited Mr. Al-Alwani at the Al-Kadhimiya detention centre, located in northern Baghdad, to ensure that he was in good health, given that he had allegedly not received visits in the previous four months due to the COVID-19 pandemic. The prison visit was also for the purpose of conveying letters of support to Mr. Al-Alwani from the Speaker of Parliament and tribal leaders.

In a letter dated 22 June 2022, the Minister of Justice reported that the Ministry's Human Rights Directorate had carried out a visit to Mr. Al-Alwani to enquire about his physical and mental health in detention. After reviewing his file, the team found that Mr. Al-Alwani was in good health and was not suffering from any chronic diseases. According to the medical report issued by the medical clinic in Al-Kadhimiya prison, the team confirmed that Mr. Al-Alwani had not been subjected to torture. The Minister of Justice also stated in the same letter of June 2022 that Mr. Al-Alwani's file was being closely examined and that his arrest and detention had taken place in accordance with the law. After enquiring whether he had been subjected to any form of torture while in detention, Mr. Al-Alwani reportedly said that he had only suffered from abuse and mistreatment during his arrest. Mr. Al-Alwani allegedly explained to the delegation visiting him that he was being treated well and that his detention conditions were good.

During a hearing with the Committee on the Human Rights of Parliamentarians at the 146th IPU Assembly in March 2023, the Iraqi delegation informed the Committee that the Human Rights Committee of the Council of Representatives had visited Mr. Al-Alwani on 8 March 2023 to enquire about his detention conditions and physical health. The delegation stated that this was not its first visit to Mr. Al-Alwani, whose case continues to be monitored by the Council of Representatives through its Human Rights Committee. The latter is deeply concerned with this case, given the allegations of torture, mistreatment and abuse, unfair proceedings, non-respect of parliamentary immunity and the political dimension of the charges levelled against Mr. Al-Alwani. Although Mr. Al-Alwani's detention conditions have improved, the delegation underlined that he is still facing four life sentences and two death sentences as a result of politically motivated charges.

The delegation also recalled that, prior to his arrest in 2013, Mr. Al-Alwani had given a speech in which he had allegedly insulted Shia leaders. The Council of Representatives had therefore created a committee to investigate the incident and reportedly found that Mr. Al-Alwani had not insulted Shia leaders or the Shia community. This incident was used by Mr. Al-Alwani's political opponents to garner hatred against him and incite sectarian tensions and violence in the country.

Regarding the recent visit carried out by the Human Rights Directorate of the Ministry of Justice in 2022, the Iraqi delegation stated that the visit was the result of the IPU Committee's work on the case. Its recent decision on Mr. Al-Alwani's situation was referred to the Minister of Justice, who had formed a committee in charge of monitoring the case and instructed it to visit the former parliamentarian in detention. The delegation thanked the IPU Committee for its work on the case of Mr. Al-Alwani, as it promoted its resolution and expressed its hope that both the Committee's work and the efforts made by the Iraqi authorities so far would lead to the release of Mr. Al-Alwani and the final resolution of his case.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Iraqi authorities for meeting with the Committee on the Human Rights of Parliamentarians during the 146th IPU Assembly to discuss Mr. Al-Alwani's case;
2. *Welcomes* the recent visits carried out to Mr. Al-Alwani and the information related to the work of the Council of Representatives regarding the case, including its continued monitoring through its Human Rights Committee; *takes note* of the report of the parliamentary committee in charge of investigating the 2013 incident about Mr. Al-Alwani's speech; and *wishes* to receive a copy of the report;
3. *Welcomes* the steps taken by the judicial authorities with regard to Mr. Al-Alwani's case, namely their recent visit and the report of the Ministry's Human Rights Directorate; *urges*, nevertheless, the judicial authorities to lift the death sentence passed against Mr. Al-Alwani, to release him

promptly and grant him appropriate compensation in light of: (i) the flawed legal proceedings, given that he did not receive legal assistance, an allegation confirmed by the United Nations Working Group on Arbitrary Detention in its 2017 report; and (ii) the impunity for the alleged acts, namely torture, solitary confinement and lack of medical treatment in the early stages of his detention;

4. *Considers* that the situation of Mr. Al-Alwani should be seen as a national cause of concern to all Iraqi leaders and decision-makers, irrespective of their religious or political affiliation; therefore *calls on* the executive authorities in Iraq, political and religious leaders across the board and all members of parliament, regardless of their political affiliation, to stand united for the protection and promotion of human rights by taking up Mr. Al-Alwani's case before the highest authority in the country to promote his release, uphold his human rights and ensure that he will not be executed as a result of politically motivated charges;
5. *Reiterates its wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit Mr. Al-Alwani in detention and to meet with the relevant Iraqi authorities, including the President of Iraq, the Prime Minister and his Chancellor, the President of the Supreme Judicial Council and the Speaker of the Council of Representatives in the near future to promote a satisfactory resolution of the case of Mr. Alwani; and *hopes* to receive a positive reply and assistance from parliament to this end, to enable the mission to take place smoothly, provided that the overall security situation allows for such a visit to take place and that the necessary security measures are in place for the delegation to ensure its safety;
6. *Requests* the Secretary General to convey this decision to the Iraqi parliamentary authorities, the Prime Minister, the President of the Supreme Judicial Council, the complainants and any third party likely to be in a position to provide relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

Libya

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



© Courtesy of the Sergiwa Family

LBY-01 – Seham Sergiwa

Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Ms. Seham Sergiwa was abducted from her home on 17 July 2019. According to the complainants, more than a dozen masked, armed men raided her house at 2 a.m. after it was plunged into darkness, as if the electricity had been cut off, and an explosion took place inside the house. During the attack, Ms. Sergiwa's husband was shot in the legs and wounded in his eye, while one of her sons was beaten up as they captured her. Following the attack, Ms. Sergiwa's husband and her son were taken to hospital, where they were not permitted to receive any visits. The complainants also alleged that the abductors had confiscated the telephones belonging to members of Ms. Sergiwa's family to prevent them from alerting the media about the attack.

The complainants claim that the abductors are members of the 106th Brigade of the Libyan National Army (LNA) led by Mr. Khalifa Haftar, an assertion based on the modus operandi of the abductors and the SUV vehicles used. The perpetrators allegedly spray-painted the message "the army is a red line [not to be crossed]" and the name of the Brigade responsible for Ms. Sergiwa's abduction, "Awliya al-Dam" (Avengers of Blood) across her house. The complainants explained that the attackers allegedly arrived in cars belonging to Libya's Criminal Investigation Department of the interim government in eastern Libya.

Ms. Sergiwa's abduction was allegedly in response to her political stance against the military operations in Tripoli, as she was taken from her home shortly after she gave an interview criticizing the military offensive and calling for an end to the bloodshed. The complainants believe that Ms. Sergiwa's

Case LBY-01

Libya: Parliament affiliated to the IPU

Victim: Female independent member of the House of Representatives

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

Submission of complaint: July 2019

Recent IPU decision: March 2022

Recent IPU mission(s): - - -

Recent Committee hearing: Hearing with the Libyan delegation to the 146th IPU Assembly (March 2023)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (July 2020)
- Communication from the complainants: December 2022
- Communication to the authorities: Letter to the Speaker of the House of Representatives (February 2023)
- Communication to the complainants: February 2023

abduction was not a random act of violence, given her vocal criticism of Mr. Khalifa Haftar and the circumstances in which the attack took place. They added that several Libyan officials living nearby, including the mayor of Benghazi, could have intervened with their armed guards to prevent or at least thwart the attack, but deliberately refrained from doing so.

In a statement issued on 18 July 2019, the Libyan House of Representatives in Tobruk strongly condemned Ms. Sergiwa's abduction by unknown individuals and called on the Ministry of the Interior, as well as all security forces, to scale up their efforts to find Ms. Sergiwa, ensure her prompt release and hold to account those responsible for her abduction. In a hearing held with the First and Second Deputy Speakers of the House of Representatives in October 2019, the IPU Committee on the Human Rights of Parliamentarians learned that the Minister of the Interior of the interim government in eastern Libya had indicated that terrorist groups might be responsible for Ms. Sergiwa's abduction, that the House of Representatives continued to monitor the case, which was still under investigation, and that it could well be that Ms. Sergiwa would turn up alive.

In its report of October 2021, the United Nations Independent Fact-Finding Mission set up to investigate human rights violations committed in Libya since 2016 concluded that there were reasonable grounds to believe that Ms. Sergiwa was a victim of enforced disappearance and found that the relevant authorities in Libya had failed to protect her life. The mission's report also stated that the evidence indicated that Ms. Sergiwa was abducted by either the LNA or affiliated armed groups. On 24 January 2022, the United Nations Secretary-General's Special Adviser on Libya, Ms. Stephanie Turco Williams, publicly expressed her concern about Ms. Sergiwa's case and called on the "concerned authorities to provide information on her whereabouts".

During a hearing with a delegation led by the First Deputy Speaker of the House of Representatives at the 146th IPU Assembly in March 2023, the Committee on the Human Rights of Parliamentarians gathered the information summarized below on the situation of Ms. Seham Sergiwa and the steps taken by the Libyan authorities concerning her case:

- After requesting the Minister of the Interior to promptly examine the case, the latter provided his initial findings to the House of Representatives on 18 July 2019 and, on 29 July 2019, the Speaker assigned the Internal Affairs Committee to following up the case with the Minister of the Interior. On 1 August 2019, the report on evidence collected was forwarded to the Attorney General. As a result, an investigation was opened (No. 2254/2019) and the victims and witnesses of the incident were summoned;
- On 8 September 2019, the Attorney General sent a letter to the Chief of Judicial Expertise and Research in Benghazi, instructing him to assign a fingerprint expert to identify the fingerprints on both the spent cartridge and shotgun found at the crime scene. The Chief of Judicial Expertise and Research was also called to appear before the Attorney General's office to provide his testimony. On 11 October 2019, the district prosecutor in charge of the investigation requested the Head of the Criminal Investigation Department to issue a circular within the prison administration and the military police and to reveal the identity of the drivers identified in the incident, so that they could be investigated;
- On 7 December 2020, the Minister of the Interior briefed the House of Representatives, and on 22 December 2020 the Attorney General was requested to communicate the findings of the investigation into the disappearance of Ms. Sergiwa to the House. As a result, the Attorney General sent a copy of the memorandum from the district prosecutor in charge of the investigation, as well as copies of all the correspondence and steps taken concerning the case to the House of Representatives;
- On 30 June 2021, the Attorney General's office in Benghazi reported to the House of Representatives on the steps taken concerning Ms. Sergiwa's case. These included appointing a fire expert to prepare a report on the incident; instructing the district prosecutor to widen the scope of evidence search and collection; swiftly investigating the incident and identifying, arresting and prosecuting the culprits; collecting testimonies from victims and witnesses; and checking through the video surveillance footage taken on the day of the incident to trace the culprits' vehicles back to their original location. Everything was then to be recorded in a memorandum;
- Ms. Sergiwa's case is a criminal offence and is still under criminal and judicial investigation by the Attorney General. The House of Representatives is monitoring the case through its Legal

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Affairs Committee to the best of its ability, considering that parliament cannot interfere with the public prosecution's work, as it is an independent body in Libya. The lack of progress could be attributed to the fact that the Ministry of Justice does not have executive power.

During the hearing with the Committee, the delegation also deplored the fact that Ms. Sergiwa's case was not an isolated incident. In fact, on 2 March 2023, another Libyan member of parliament, Mr. Hassan Al-Ferjani from the Tarhuna district, was allegedly abducted. The delegation also emphasized that women parliamentarians in Libya were particularly targeted because of their political affiliation, with serious threats made against them through social media, which have been increasingly used to undermine their work and that of all members of parliament and to incite hatred and violence against them and members of their families. The delegation added that the enforced disappearance of Ms. Sergiwa was also the result of an online hate campaign initiated against her by her political opponents and the other individuals present during the telephone interview she gave on the day of her abduction.

The Libyan delegation reiterated that the House of Representatives had done everything possible to find out what had become of Ms. Sergiwa. They also explained that they had no indication as to whether she is still alive or not. Furthermore, and based on the preliminary findings of the investigations, it appears that the 106th Brigade, which, according to the delegation, is not under the command of the LNA, is the primary suspect in this case. This rogue brigade took advantage of the fragile security situation in Libya between 2018 and 2019 to carry out several crimes that have remained unpunished. The delegation hopes that the improved security situation in the country will lead to new developments in the case.

The delegation thanked the Committee for its work and called on it to continue examining Ms. Sergiwa's case to find out what had become of her. The delegation also explained that the work of the House of Representatives and the safety of its members were severely challenged by the ongoing conflict and division in Libya and the profusion of weapons, which encouraged violence in the country. The delegation called on the Committee, the Inter-Parliamentary Union and the entities of the United Nations system, including its Independent Fact-Finding Mission and the United Nations Secretary-General's Special Representative for Libya, to denounce and condemn similar violations and to scale up their efforts to end division and violence in Libya and protect the lives of all Libyans, including members of parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Libyan authorities for meeting with the Committee on the Human Rights of Parliamentarians during the 146th IPU Assembly to discuss Ms. Sergiwa's case and for the information provided on the steps taken by the House of Representatives and the Libyan authorities with regard to this case;
2. *Recognizes*, once again, the exceptional situation prevailing in Libya and the formidable challenges to law and order in the country, and *expresses its support* to all members of the House of Representatives in Libya, in particular women parliamentarians who are primarily targeted because of their gender and their political work, both online and offline; *emphasizes*, that the human rights of a member of the Libyan House of Representatives should be upheld at all costs; and *urges* the executive authorities in Libya to take the appropriate measures to hold those responsible for Ms. Sergiwa's abduction to account and provide information on what has become of her;
3. *Expresses its concern* about the fresh allegations that Ms. Sergiwa was targeted as a result of an online hate campaign inciting physical violence against her, waged by her political opponents; *notes with concern* that such online harassment and hate campaigns are routinely used to undermine the work of parliamentarians in Libya, particularly women parliamentarians, because of their political affiliation and for expressing their political views; *reaffirms* that Libyan women should be able to exercise their civil and political rights without hindrance, intimidation or fear for their lives; and, to that end, *calls on* the competent authorities to ensure that social

media is not used to circulate hateful messages against members of parliament, particularly women parliamentarians;

4. *Reaffirms*, once again, the long-lasting effects of impunity on the integrity of parliament and its ability to fulfil its role as an institution – even more so when leading figures of parliament are targeted for their political views, as in the present case; *stresses* that, when they go unpunished, crimes of this nature are bound to recur as their perpetrators are decisively encouraged to continue violating the rights of women parliamentarians; and *urges* the Libyan authorities to establish the truth in Ms. Sergiwa's case to send a strong message to those responsible for committing serious human rights violations that impunity cannot prevail in Libya;
5. *Takes note* of the appeal made by the Libyan parliamentary delegation to pursue the examination of Ms. Sergiwa's case and other cases of human rights violations affecting other members of parliament; and *underlines* in this regard that a formal complaint regarding the case of member of parliament Al-Ferjani, and any other member of parliament whose rights have been violated, would give the Committee on the Human Rights of Parliamentarians the mandate to examine their situation;
6. *Reiterates* its wish to learn further about the work of the United Nations Independent Fact-Finding Mission and the United Nations Secretary-General's Special Representative for Libya with a view to exploring avenues of cooperation to help resolve Ms. Sergiwa's case;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Attorney General in Libya, the Minister of Justice, the United Nations Independent Fact-Finding Mission, the United Nations Secretary-General's Special Representative for Libya, the complainants and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Pakistan

**Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)**



Mohsin Dawar (left) and Ali Wazir (right), PTM member of parliament from the North Waziristan tribal district, sit before a media briefing in Islamabad on 27 January 2020. / Farooq NAEEM / AFP

PAK-25 – Muhammad Ali Wazir

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
- ✓ Right of appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Mr. Muhammad Ali Wazir is a member of the National Assembly of Pakistan. He is also a co-founder of the Pashtun Tahaffuz (Protection) Movement (PTM), which was established in 2014 to defend the rights of the Pashtun people. Mr. Wazir is a well-known critic of the military leadership of Pakistan, which he blames for instigating widespread human rights violations against civilians in areas predominantly inhabited by Pashtuns. This position put him in conflict with influential members of the military leadership. Mr. Wazir was previously arrested on several occasions together with other PTM leaders for attending PTM gatherings and making critical statements against the military. He has also spoken out against the Taliban armed group, which exposed him and his family to repeated attacks.

The complainant reports that Mr. Ali Wazir was arrested on 16 December 2020 in connection with a rally commemorating the 2014 Peshawar school massacre and was charged with violating a number of provisions of the Pakistan Penal Code and the Anti-Terrorism Act. The charges against him include

Case PAK-25

Pakistan: Parliament affiliated to the IPU

Victim: Independent member of the National Assembly of Pakistan

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

Submission of complaint: November 2021

Recent IPU decision: November 2021

IPU Mission(s): - - -

Recent Committee hearing: Hearings with the Pakistani delegation to the 146th IPU Assembly (March 2023)

Recent follow-up:

- Communication from the authorities: November 2021
- Communication from the complainant: December 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2023)
- Communication to the complainant: December 2022

preparing a criminal conspiracy, making derogatory remarks against the armed forces and other state institutions in his speeches. He has also been accused of sedition and spreading “hate speeches” against these institutions.

However, the complainant rejects the charges as baseless and politically motivated. The complainant contends that the accusations against Mr. Ali Wazir are intended to interfere with his parliamentary mandate and his advocacy for the rights of the Pashtun people, in violation of his rights to freedom of expression and to peaceful assembly.

According to the complainant, although Mr. Wazir was freed on bail by the Supreme Court of Pakistan on 30 November 2021, his release from prison was forestalled in connection with a separate charge emanating from another jurisdiction. Since then, Mr. Wazir was presented with new charges on five occasions, which prevented his leaving prison and regaining his seat in parliament even when accorded bail and despite the fact that the anti-terrorism court acquitted him in October 2022. Also, although the Speaker of the National Assembly, Mr. Raja Pervaiz Ashraf, issued an order summoning Mr. Wazir to the parliamentary budget session on 21 June 2022, Mr. Wazir was not able to attend the session in the end as he was reportedly subjected to attacks by state agents when he was undergoing a health check in hospital, which led him to demand to be returned to prison instead. The complainant has reported that the prolonged detention of Mr. Ali Wazir on remand violates his parliamentary mandate and puts his life at risk, as he suffers from hypertension, diabetes and other ailments.

However, following the mobilization of numerous actors, including members of the Senate of Pakistan, to pressure the authorities to respect Mr. Wazir’s rights, he was eventually released on bail on 14 February 2023, after spending 26 months in prison. Nevertheless, the complainant insists that Mr. Ali Wazir is still facing several trials, which may lead him to be incarcerated yet again, pointing to numerous examples of unfair trials, arbitrary detention and extrajudicial use of force against critics of the military establishment that have remained entirely unpunished.

Long-standing human rights concerns over the pattern of impunity for numerous violations carried out by the security sector of Pakistan were voiced by several countries at the United Nations Human Rights Council during the latest Universal Periodic Review of the human rights situation in the country on 1 February 2023. Several recommendations addressed ways in which the authorities of Pakistan could address these long-standing challenges, including by criminalizing torture and mistreatment, ensuring that complaints against the extra-legal use of force by the security sector are duly processed, revising the Pakistan Penal Code and the Anti-Terrorism Act to ensure compliance with Pakistan’s human rights obligations, offering a standing invitation to United Nations Special Rapporteurs, and strengthening the effectiveness and independence of the National Commission for Human Rights.² This Commission was also the object of comments by the United Nations Human Rights Committee, which expressed concern that this institution is prevented from carrying out inquiries into violations committed by the armed forces or the intelligence agencies. The Committee was also concerned by the overcrowding and inadequate conditions of detention in prison and at the high proportion of persons held on remand, some of whom were in pretrial detention for periods longer than the maximum sentence for the crime. Regarding freedom of expression, the Committee called on the authorities to ensure that criminal laws are not improperly used against dissenting voices and urged Pakistan to review its legislation, including article 19 of the Constitution and other relevant laws, to bring the legislation in line with Pakistan’s human rights obligations.³

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Parliament of Pakistan and the member of the delegation of Pakistan to the 146th IPU Assembly who was heard by the Committee on the Human Rights of Parliamentarians for their cooperation; *acknowledges* the efforts made by several parliamentarians to ensure the release of Mr. Ali Wazir from prison; *hopes* to be able to rely on the support of parliament in ensuring that the rights of Mr. Ali Wazir are protected in full, including his right to a fair trial; and

² <https://uprmeetings.ohchr.org/Sessions/42/Pakistan/Pages/default.aspx>

³ <file:///C:/Users/syno2416/home/Drive/Downloads/G1724636-1.pdf>

reiterates its wish to be kept informed of the dates of the trial, and of any other relevant judicial developments in the case, as well as to *receive* a copy of the relevant legal provisions in preparation for a trial observation mission to Pakistan;

2. *Is deeply concerned* that Mr. Ali Wazir has been detained on remand from December 2020 until February 2023, despite his acquittal in October 2022 and repeated decisions to free him on bail; *is deeply concerned* by reports that Mr. Ali Wazir has been held in overcrowded prison cells despite the fact that he suffers from poor health, including hypertension and diabetes; *wishes* to receive detailed information on the detention conditions of Mr. Ali Wazir; and *recalls* that international human rights standards reflected in General Comment No. 35 of the United Nations Human Rights Committee specify that pretrial detention “shall be the exception rather than the rule”, should not be general practice, and should never apply automatically to all those charged with a certain crime;
3. *Considers* that the Pakistani Parliament has a vested interest in helping ensure that the human rights of all their members are fully protected, irrespective of their posture or allegiance; *is deeply concerned*, as mentioned by the United Nations Human Rights Committee in its latest concluding observations, by the high incidence of arbitrary arrest and detention, mistreatment and extra-legal use of force allegedly committed by security forces, and that such allegations remain largely unpunished;
4. *Recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further human rights violations, and that violations against members of parliament, 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; *is deeply alarmed* that all of the latest cases concerning Pakistan before the IPU Committee are marked by a persistent pattern of impunity; *firmly believes* that such cases will continue to emerge as long as the underlying factors behind this pattern of impunity are addressed and perpetrators of violations are held to account; and *calls* on the parliamentary authorities to exercise their oversight function to ensure that the perpetrators of violations committed against Mr. Wazir, including the authors of the attacks against him on 21 June 2022, are identified and brought to justice;
5. *Calls on* the Parliament of Pakistan to use its powers to carry out a full review of its legislation, including the Pakistan Penal Code and the Anti-Terrorism Act, and to abolish or amend it in line with Pakistan’s international human rights obligations, including the obligation to criminalize torture and mistreatment; *calls on* the authorities to make use of the expertise of the United Nations special procedures, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to ensure that existing legislation is amended so as to comply with applicable international human rights standards; and *wishes to receive* information on all actions taken to this effect;
6. *Affirms* that the IPU stands ready to provide assistance upon request aimed at building the capacities of parliament and other public institutions to identify any underlying issues that have given rise to the current case and to rectify such issues, including with regard to the legislation and procedures implemented in the case; and *requests* the competent authorities to provide further information on how the IPU could best provide such assistance;
7. *Requests* the Secretary General to convey this decision to the parliamentary and other relevant national authorities, the complainant and any interested third party likely to be in a position to supply relevant information to assist the Committee in its work;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Senegal

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



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

SEN-07 – Khalifa Ababacar Sall

Alleged human rights violations

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

A. Summary of the case

Mr. Khalifa Ababacar Sall was elected as a member of parliament in July 2017, while he was on remand in custody in connection with accusations of misappropriation of public funds. On 25 November 2017, at the request of the Public Prosecutor, the National Assembly lifted Mr. Sall's parliamentary immunity.

At the conclusion of a trial that lasted nearly two and a half months, Mr. Sall was sentenced on 30 March 2018 to a five-year prison sentence without parole and a fine of 5 million CFA francs, for forgery and use of forgery in business documents, forgery and use of forgery in administrative documents, and fraud involving public funds.

Having had Mr. Sall's case referred to it, the Court of Justice of the Economic Community of West African States (ECOWAS) raised several irregularities in the conduct of the trial and preliminary investigation. The ECOWAS court's findings and the irregularities it raised were not taken into account by the Court of Appeal, which upheld the first-instance judgment on 30 August 2018. Mr. Sall's lawyers withdrew from the appeal process in order to denounce the arbitrary nature of the trial. They then took the case to the Supreme Court (Court of Cassation), the last possible remedy. On 3 January 2019, the Supreme Court dismissed all the appeals brought by Mr. Sall on the grounds that they were "inadmissible or ill-founded" and upheld his sentence.

Case SEN-07

Senegal: Parliament affiliated to the IPU

Victim: Opposition member of parliament, mayor of Dakar

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

Submission of complaint: November 2017

Recent IPU decision: October 2018

IPU mission(s): - - -

Recent Committee hearing: Hearing with the Senegalese delegation to the 146th IPU Assembly (March 2023)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2019)
- Communication from the complainant: March 2021
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2023)
- Communication to the complainant: February 2023

Once the conviction had been upheld, Mr. Sall's parliamentary mandate was permanently revoked by the Bureau of the National Assembly. From his cell, Mr. Sall applied to stand in the 2019 presidential elections, but his candidacy was declared inadmissible by the Constitutional Court. Pardoned by the President of the Republic, Mr. Sall was released on 29 September 2019. The Electoral Code of Senegal provides that persons who, as a result of a conviction, have been disqualified from voting, cannot – once rehabilitated or amnestied – be refused registry on the electoral roll.

In September 2022, the President of the Republic reportedly instructed the Minister of Justice to examine, as soon as possible, the possibility and appropriate form of amnesty for persons who had lost their right to vote. At the hearing held at the 146th IPU Assembly, the Senegalese delegation confirmed that a draft amnesty law was being prepared and that targeted IPU assistance in that regard would be useful and welcome.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Senegalese delegation for the information provided and for having met with the members of the Committee on the Human Rights of Parliamentarians at the 146th IPU Assembly for a constructive discussion on the case under consideration and related concerns;
2. *Notes with satisfaction* Mr. Sall's release following a presidential pardon in September 2019 and the information provided by the Senegalese delegation to the 146th IPU Assembly that a draft amnesty law is being prepared at the national level; *notes* that Mr. Sall's situation is not an isolated case, as at least another opposition candidate (see case SEN-08) could be definitively excluded from the presidential race in 2024 following a possible conviction; *considers* in this regard that an amnesty scheme covering Mr. Sall's situation and enabling him to regain full enjoyment of his civil rights would be an appropriate means of obtaining a satisfactory settlement of this long-standing case; *recalls*, nevertheless, that any amnesty law must meet a number of specific criteria in order to be compatible with international human rights standards;
3. *Notes with interest* the statement made by the Senegalese delegation to the 146th IPU Assembly that parliament would like to receive the IPU's assistance in preparing the new amnesty law; *reaffirms* in this regard that the IPU stands ready to provide targeted assistance concerning the amnesty scheme under preparation, if officially requested; and *invites* the parliamentary authorities to provide further information on how the IPU could best provide such assistance;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities of Senegal and to the complainant;
5. *Requests* the Committee to continue examining this case and to report back to it in due course.

Senegal

**Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)**



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

SEN-08 – Ousmane Sonko

Alleged human rights violations

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

A. Summary of the case

Mr. Ousmane Sonko is president of *PASTEF-Les Patriotes*, a Senegalese opposition party. He was a member of the National Assembly in the previous legislature (2017–2022) and has his sights set on high office. Mr. Sonko came third in the 2019 presidential elections and has officially announced that he would run in the 2024 presidential elections. According to the complainant, the present case is part of ongoing efforts by the ruling party to remove any possibility of change in political leadership.

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

On 3 March 2021, Mr. Sonko was summoned to court and went accompanied by a crowd of activists. According to the complainant, the procession was stopped half way by security forces, who arrested Mr. Sonko. The complainant alleges several irregularities concerning Mr. Sonko's detention, the criminal proceedings and the procedure for lifting parliamentary immunity.

According to the parliamentary authorities, the case is not of a political nature and procedures have been followed. On the day he was summoned by the judge, Mr. Sonko allegedly mobilized members and supporters of his party and refused to follow the route designated by the law enforcement

Case SEN-08

Senegal: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: March 2021

Recent IPU decision: May 2021

Recent IPU mission(s): - - -

Recent Committee hearing: Hearing with the Senegalese delegation at the 146th IPU Assembly in Manama (March 2023)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2022)
- Communication from the complainant: February 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2023)
- Communication to the complainant: February 2023

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authorities, thus creating serious public disorder problems. All this took place against a background of a ban on gatherings and demonstrations, following the health emergency declared because of COVID-19. These acts of public disorder were reportedly the reason for his arrest and detention for insurgency and practices and acts likely to disrupt public security, which are offences provided for and punished in the Senegalese Criminal Code.

Mr. Sonko was released under judicial supervision on 8 March 2021. The Public Prosecutor dropped the initial charges brought against him for public disorder. In September 2022, the complainant stated that the investigation into the allegations of rape was ongoing, which the parliamentary authorities confirmed in an official letter dated 11 October 2022. On 3 November 2022, Mr. Sonko was heard by the senior judge in charge of the case. According to the complainant, Mr. Sonko refused to submit to a DNA test requested by the Court as, according to him, the case brought against him was "a plot".

Given that the list of candidates for the proportional vote submitted by his coalition, on which he was included, had been declared inadmissible, Mr. Sonko could not participate in the legislative elections of July 2022 as a candidate.

On 6 February 2023, Mr. Sonko was forcibly taken out of his car by police officers and taken to his home in an armoured van after having appeared before the court.

At the hearing held during the 146th IPU Assembly, the Senegalese delegation reiterated that the case was not of a political nature, that Mr. Sonko's rights had been respected throughout the procedure and that justice should follow its course.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Senegalese delegation for the information it communicated and for having met with the members of the Committee on the Human Rights of Parliamentarians during the 146th IPU Assembly to discuss in a constructive manner the case being examined and the concerns therein;
2. *Underlines* that Mr. Sonko has his sights set on the State's highest office, that he came third in the presidential election in 2019 and that he announced that he would run in the 2024 presidential elections; *notes* that Mr. Sonko's case is not an isolated case as in the past other opposition candidates (see case SEN-07) were definitively excluded from the presidential race after being convicted by the courts and that currently, in view of the circumstances, Mr. Sonko could also find himself deprived of his civil rights following a possible conviction against him; *notes also* that Mr. Sonko was not able to take part as a candidate in the legislative elections in July 2022 as a candidate;
3. *Recalls* that, according to both the letter and spirit of the IPU [Universal Declaration on Democracy](#), the key to the functioning of democracy is the holding of free elections at regular intervals 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; consequently, *notes with concern* the complainant's allegations that Mr. Sonko is the subject of politically motivated prosecution intended to invalidate his candidacy in the forthcoming presidential elections; *urges*, in this respect, the competent authorities to take all necessary measures to ensure that the conditions for the holding of such elections are met for the opposition candidates and their supporters to exercise their fundamental right to take part in the conduct of public affairs on an equal footing with the ruling party and its supporters; and *calls on* the parliamentary authorities to provide information on any measures taken to this end;
4. *Expresses* its hope that the ongoing trial against Mr. Sonko will lead to a final judicial decision without delay, following an independent and impartial procedure, and in full compliance with the relevant national and international standards, including the rights of the alleged rape victim; and *requests* the parliamentary authorities to provide information on any relevant developments in the proceedings;

5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant 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.

Somalia

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



Amina Mohamed Abdi ©AMISOM

SOM-13 – Amina Mohamed Abdi

Alleged human rights violations

- ✓ Murder

A. Summary of the case

Ms. Amina Mohamed Abdi entered parliament in 2012; she was re-elected in 2016 and remained a member of the House of the People until her assassination in March 2022.

According to the complainant, Ms. Amina Mohamed Abdi was killed on 23 March 2022 as she left a polling station in the constituency of Beledweyne. Reportedly, a suicide bomber ran up to hug her and detonated his explosive vest, killing her and many others. According to media reports, the al-Shabaab jihadist insurgent group claimed responsibility for the attack, which was followed by another blast at the hospital of Beledweyne, ostensibly to ensure that all survivors taken there for treatment were killed. The then President, Mohamed Abdullahi Mohamed (also known as Farmaajo), condemned the attacks and the then Prime Minister, Mohamed Hussein Roble, urged the security agencies to carry out an investigation into the murder.

The complainant claims that, despite the official position alleging that al-Shabaab was behind the murder, Ms. Abdi was in fact the victim of a State-sponsored attack due to her fearless efforts to investigate the disappearance of Ms. Ikran Tahlil, a young female civil servant who was allegedly killed by agents from the National Intelligence and Security Agency (NISA) in June 2021. Several high-ranking officials, including former Prime Minister Roble, have publicly stated that the killing of Ms. Abdi was an attempt to disrupt justice in Ms. Tahlil's case. In September 2021, Prime Minister Roble had dismissed the NISA chief following Ms. Tahlil's disappearance, leading to tensions with President Farmaajo, who proceeded to withdraw the Prime Minister's executive powers.

Since the death of Ms. Abdi, the complainant asserts that a suspect has been identified and apprehended by the authorities. A man named Mohamed Abdi Nuur (also known as Dr. Fanah) has testified that he was tasked with organizing the attack by a regional deputy of the al-Shabaab armed

Case SOM-13

Somalia: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: June 2022

Recent IPU decision: October 2022

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: March 20223
- Communication to the authorities: Letter to the Speaker of the House of the People (February 2023)
- Communication to the complainant: March 2023

group on behalf of high-ranking Somali officials with links to the insurgency group. However, the complainant reports that the relevant segments of the video recording of that testimony have been removed. The complainant alleges that this was done to mislead the public into concealing the true mastermind of the murder as well as the collusion of certain State officials with al-Shabaab.

Somalia is facing an increase in violent armed attacks as part of a decades-long civil war against insurgent groups. In past cases before the IPU Committee on the Human Rights of Parliamentarians, the federal authorities have not been able to investigate the murder of parliamentarians due to structural challenges plaguing the country's judicial system. The complainant is of the view that the justice system is not reliable due to the normalization of impunity for violent crimes and chronic corruption, and calls for an international investigation of the murder.

Following the May 2022 elections, there was a peaceful transfer of power in June 2022, raising hopes for a more democratic and peaceful future for the country. The newly elected President, Hassan Sheikh Mohamud, appointed Mr. Hamza Abdi Barre as Prime Minister. Both belong to the same party as Ms. Abdi, the Union for Peace and Development Party.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Condemns* the brutal murder of Ms. Amina Abdi; *stresses* that this vicious crime must not be left unpunished and that all those responsible for Ms. Abdi's death must be held to account in keeping with principles of accountability and human rights law; *urges* parliament – within the boundaries of the separation of powers – to help ensure that justice is done and thereby send a strong signal that the assassination of a parliamentarian will not be left unpunished; *calls on* the Somali authorities to do their utmost to ensure that justice is done; and *wishes* to receive information on any steps made by the authorities in that regard;
2. *Regrets* that the Somali parliamentary authorities were not able to meet with the IPU Committee on the Human Rights of Parliamentarians during the 146th IPU Assembly, despite the invitation extended by the Committee; and *recalls* in this regard that the Committee does everything possible, in accordance with its Rules and Practices, to promote dialogue with the authorities of the country concerned, and primarily with its parliament, so as to achieve a satisfactory resolution in the cases before it;
3. *Acknowledges* the efforts undertaken thus far to identify the culprits and try one of the suspects, an individual under the name of Mohamed Abdi Nuur, also known as Dr. Fanah, as reported by the complainant; *is shocked* by the testimony of the suspected organizer of the attack about the manner in which the attack was allegedly planned and carried out; *is disturbed* by allegations put forward by the complainant that certain high-ranking state officials are behind this vicious attack as a reprisal for Ms. Abdi's advocacy for accountability in the case of the enforced disappearance of Ms. Ikran Tahlil; and *wishes* to receive the official views of the authorities on these allegations and to know whether the investigation into the murder is taking this lead into account;
4. *Affirms* that the IPU stands ready to provide assistance, if so requested, aimed at building the capacities of parliament and other public institutions to identify any underlying issues that may deter the resolution of this case and to rectify such issues, given the sizeable challenges faced by state institutions in Somalia and the recent efforts aimed at a transition towards peace and democracy based on the rule of law; *requests* the competent authorities to provide further information on how the IPU could best provide such assistance; and *calls on* the authorities to make use of the expertise of the United Nations special procedures, including the Independent Expert on the situation of human rights in Somalia, to ensure accountability in this case;
5. *Requests* the Secretary General to convey this decision to the relevant authorities, 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.

Uganda

**Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)**



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UGA-24 – Allan Aloizious Ssewanyana
UGA-25 – Muhammad Ssegirinya

Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

The case concerns allegations of human rights violations, including, *inter alia*, arbitrary detention, torture, inhumane conditions of detention and lack of fair trial proceedings, affecting two opposition members of parliament in Uganda.

On 7 September 2021, the Hon. Muhammad Ssegirinya was arrested together with the Hon. Allan Aloizious Ssewanyana by the Ugandan police on allegations that the two parliamentarians were involved in the murder of two individuals and the attempted murder of a third person. They were charged with the offences of murder, terrorism, aiding and abetting terrorism and attempted murder. All these crimes were purportedly committed on 23 August 2021 in Masaka District. The two members of parliament were subsequently remanded in custody and held in Kigo Government Prison. On 21 September 2021, both members of parliament were granted bail by the High Court of Uganda sitting in Masaka.

Case UGA-Coll-02

Uganda: Parliament affiliated to the IPU

Victims: Two male opposition members of parliament

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

Submission of complaint: January 2022

Recent IPU decision: October 2022

IPU mission(s): - - -

Recent Committee hearing: Hearing with the Ugandan delegation to the 145th IPU Assembly (October 2022)

Recent follow-up:

- Communication from the authorities: January 2023
- Communication from the complainant: February 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2023)
- Communication to the complainant: February 2023

The complainant states that, on 24 September 2021, after having paid bail, Mr. Ssewanyana was released from Kigo Government Prison but was immediately attacked at the prison gate, manhandled and abducted by gun-wielding men in plain clothes, who whisked him away to an unknown destination. On 27 September 2021, Mr. Ssegirinya was also released from Kigo Government Prison, but he too was immediately abducted at the prison gate by similarly dressed men wielding heavy weapons and whisked away to an unknown destination.

On 30 September 2021, after days of detention at unknown detention facilities, the two members of parliament were summoned to the Chief Magistrate's Court in Masaka and read additional charges. According to the complainant, they appeared frail and informed the court that they had been brutally tortured through physical beatings while in detention. On the occasions the members of parliament re-appeared in court to hear their cases, they showed physical, festering wounds and complained of torture and humiliation while in detention. The complainant also states that the members of parliament informed the presiding judge that they had been prevented from receiving medical attention by a doctor of their choice and that they had been banned from receiving any visitors, including family members, while in prison.

At the hearing held during the 145th IPU Assembly (October 2022), the Ugandan delegation stated that the two members of parliament had been arrested under section 21(1)(h) and (i) of the Police Act, Chapter 303, of the Laws of Uganda, which both obliges and empowers the police to "detect and bring offenders to justice" and to "apprehend all persons whom he or she is legally authorised to apprehend and for whose apprehension sufficient grounds exist". The delegation also informed the IPU Committee on the Human Rights of Parliamentarians (CHRP) that the privileges and immunities of members of parliament as provided for in Ugandan legislation did not grant immunity from criminal proceedings. Regarding action taken by parliament, the delegation reported that on several occasions the Human Rights Committee of the Parliament of Uganda had visited the two members of parliament in Kigo Prison and Mulago National Referral Hospital in the presence of their legal representatives and, in the case of Mr. Ssegirinya, in the presence of his private doctor. The parliamentary committee also interviewed the prison authorities, the two parliamentarians concerned and other stakeholders. The matter of the incarceration of the two members of parliament had been discussed 10 times on the floor of parliament since their arrest and the Government has updated parliament on the situation of both members of parliament. On 7 September 2022, in her communication to parliament, the Speaker of Parliament called for the expeditious trial of Mr. Ssewanyana and Mr. Ssegirinya. The Ugandan delegation also provided the CHRP with copies of excerpts from the parliamentary proceedings in this regard. In a letter dated 20 January 2023, the Speaker of Parliament provided the official views and observations regarding the case and confirmed that the request for a visit by a CHRP delegation would be brought to the attention of the Ministry of Foreign Affairs for consideration.

According to the complainant, on 13 February 2023, the two members of parliament were granted bail and transferred to hospital for urgent medical attention. The bail applications were based on what their lawyers said were medical conditions that required treatment, which the prison facilities were failing to provide.

A trial observer mandated by the IPU travelled to Uganda on 11 February and on 6 March 2023 to observe the proceedings against the two members of parliament. The observer reported that, although the hearings had finally been adjourned on both occasions, the presiding judge gave opportunities to both parties, the prosecution and defence, to present their cases, that the general court atmosphere was calm and that court workers were cooperative with the observer. The defence also notified the court of its intention to file a petition before the Constitutional Court wherein it would seek to challenge the entire process.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of Parliament for the information provided in writing in January 2023; and *takes note with appreciation* of steps taken by the Parliament of Uganda to monitor the situation of Mr. Ssewanyana and Mr. Ssegirinya, which included efforts made by the Standing Committee on Human Rights of the Parliament of Uganda to visit the members of parliament in

prison and regularly interact with the Commissioner General of the Uganda Prison Service to request periodical reports on the status of the detained members of parliament;

2. *Welcomes* the release on bail of the two members of parliament and the fact that they have been able to receive specialized medical attention; *remains concerned*, however, about the impunity that seemingly reigns with regard to the perpetrators of the alleged acts of torture committed against them while in detention; *calls on* parliament, once again, to continue using its powers effectively to ensure that these allegations are fully investigated, followed by whatever steps are warranted as a result to ensure accountability; and *wishes* to be kept informed of progress made in this regard;
3. *Notes with interest* that the Ugandan Parliament has brought the CHRP's request for a mission to Uganda to the attention of the Ministry of Foreign Affairs for consideration; *is confident* that, in light of this new development and the renewed assurances of support provided by the Ugandan delegation that met with the CHRP during the 145th IPU Assembly, a CHRP delegation can soon travel to Uganda to meet with all relevant authorities exercising legislative, executive or judicial powers, the prison authorities and any other institution, civil society organization or individual in a position to provide relevant information regarding the situation of Mr. Ssewanyana and Mr. Ssegirinya; *calls on* the parliamentary authorities to do their utmost to obtain a response from the executive authorities regarding such a mission as soon as possible; and *hopes* that the competent national authorities will cooperate fully to help the mission find swift satisfactory solutions to this case in accordance with applicable national and international human rights standards, and to obtain first-hand information on the status of the implementation of the CHRP's recommendations following its [mission](#) to Uganda in 2020;
4. *Notes also with interest* that a trial observer mandated by the IPU has been able to follow the proceedings on the ground; *decides*, in this regard, to mandate a new a trial observer to continue monitoring the upcoming court proceedings; and *wishes* to be kept informed of the dates of future hearings when available and of any other relevant judicial developments in the case, including regarding the outcomes of a possible constitutional petition that could be filed by the lawyers of the two members of parliament;
5. *Requests* the Secretary General to convey this decision to the Speaker of Parliament, the complainant 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.

Uganda

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



© Betty Nambooze

UGA-26 – Betty Nambooze

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of fair trial proceedings
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

According to the information provided by the complainant, Ms. Betty Nambooze, a member of parliament of the Parliament of Uganda, was beaten by a group of security operatives on 27 September 2017 while she was in parliament. The events took place against the backdrop of controversial debates in parliament about the Constitution Amendment Bill No. 2 of 2017.

The complainant reports that during a violent incident in parliament that day, a group of state security operatives attacked Ms. Nambooze. They forced her body into uncomfortable contortions, including forcing her shoulders, arms and hands towards each other behind her back while one of them applied a lot of pressure on her back using his knee. She was then arrested and transferred to the headquarters of the Special Investigations Unit of the Uganda police force located in Kireka, where she remained for seven hours without receiving medical attention, despite her deteriorating condition and her specific requests in that regard. None of her children, her husband, or friends were permitted to see her, even though they were present at the police station.

After Ms. Nambooze's release, towards midnight on 27 September 2017, she was driven in a police vehicle to Bugolobi Medical Centre where she was admitted for over a fortnight. Subsequent medical examinations revealed that, as a result of the beatings and contortions inflicted, three discs within her lower vertebrae had become compressed, thereby endangering her spinal cord. The complainant asserts that, in violation of Ms. Nambooze's privacy, security men and women forced themselves into

Case UGA-26

Uganda: Parliament affiliated to the IPU

Victims: A female opposition member of parliament

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

Submission of complaint: February 2023

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: February 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (March 2023)
- Communication to the complainant: February 2023

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the examination rooms and forcefully read through all reports and notes that were being written as she went through tests and treatment.

Ms. Nambooze travelled to India for surgery and treatment. The complainant claims that pleading with the government medical and administrative departments in charge to allow and enable her to travel took a total of one and a half months, during which time she was hospitalized in Kampala without receiving the specialized treatment required. Ms. Nambooze returned to Uganda in late November 2017. As she was preparing to travel back to India for a check-up in June 2018, and still in the process of healing, she was re-arrested on charges of “offensive communication” and manhandled again by security officers. According to the complainant, Ms. Nambooze remained immobile in a prison cell for nearly a week, unable to sit up or stand and in constant pain. She was then transferred to a hospital but, on the way, a police vehicle struck the ambulance. In the collision, her spine was further damaged, and her knee was severely injured. Doctors later determined that one of the metal screws implanted in her back had been dislodged and was pressing on a major nerve.

Ms. Nambooze was finally given bond and flown to India for another round of surgery in July 2018. According to the complainant, five years later she is still experiencing pain and still undergoing tough medical treatment. No action has been taken by the national authorities to identify and punish those responsible for the above-described events.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Ms. Betty Nambooze 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 an incumbent member of parliament at the time of the initial allegations; and (iii) concerns allegations about torture, ill-treatment and other acts of violence; threats, acts of intimidation; arbitrary arrest and detention; inhumane conditions of detention; lack of fair trial proceedings; other acts obstructing the exercise of the parliamentary mandate, allegations which fall within the mandate of the IPU Committee on the Human Rights of Parliamentarians (the Committee);
2. *Expresses deep concern* at the alleged treatment suffered by Ms. Nambooze, all the more so given the apparent irreparable damage to her health; and *considers* that the allegations in this case have to be seen in the context of the Committee’s concerns in other existing cases in Uganda about the lack of respect for the physical integrity of members of the opposition and the lack of accountability whenever they are subject to ill-treatment or torture;
3. *Suggests* that the situation of Ms. Nambooze also be included in the mandate of the Committee’s mission to Uganda that is already planned with regard to other Ugandan cases before the Committee; *calls on* the parliamentary authorities to do their utmost to obtain a response from the executive authorities as soon as possible with regard to the organization of this mission; and *requests* the parliamentary authorities in the meantime to provide in writing the official views on the allegations made by the complainant with respect to Ms. Nambooze’s situation;
4. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
5. *Requests* the Committee to continue examining this case and to report back to it in due course.

Uganda

Decision adopted unanimously by the IPU Governing Council at its 211th session (Manama, 15 March 2023)



© Twitter @AdekeAnna

UGA-27 – Anna Adeke Ebaju

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association

A. Summary of the case

On 23 May 2022, Ms. Adeke was arrested along with another member of parliament and three other political activists following a standoff with police at Kasangati Town in Wakiso District. According to the complainant, they attempted to make their way to the home of former presidential candidate, Dr. Kizza Besigye, who had been detained earlier that same day. They were granted bail and released afterwards. The complainant reports that Ms. Adeke had been arrested about 10 times in recent years because of her political views and activities.

During the Soroti City East by-election on 28 July 2022, security forces allegedly broke into Ms. Adeke’s house with the intention of intimidating her. They broke her bedroom door down while looking for her and conducted a search of the entire house. People who were found in her house, many of whom were political activists, were reportedly beaten, pepper-sprayed, tear-gassed and arrested. According to the complainant, the security forces conducted an operation that day that led to the arrest of around 80 supporters and agents of her political party, the Forum for Democratic Change. The police refused to register Ms. Adeke’s complaint when she went to report it in Soroti City on 29 July 2022.

Case UGA-27

Uganda: Parliament affiliated to the IPU

Victim: A female opposition member of parliament

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

Submission of complaint: February 2023

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities:
- - -
- Communication from the complainant:
February 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (March 2023)
- Communication to the complainant:
February 2023

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Ms. Anna Adeke Ebaju 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 an incumbent member of parliament at the time of the initial allegations; and (iii) concerns allegations about threats and acts of intimidation; arbitrary arrest and detention; violation of freedom of opinion and expression; violation of freedom of assembly and association, allegations which fall within the Committee's mandate;
2. *Expresses deep concern* at the alleged some 10 arbitrary arrests and detentions of Ms. Adeke and at the alleged unlawful conduct by security forces at her home on 28 July 2022; and *considers* that the allegations in this case have to be seen in the context of the Committee's concerns in other existing cases in Uganda about intimidation by state agents, through legal and physical means, of members of the opposition and the lack of accountability when these transgressions occur, as also appears to be borne out in this case by the lack of police action to accept a complaint regarding what reportedly happened at Ms. Adeke's home on 28 July 2022;
3. *Suggests* that the situation of Ms. Adeke also be included in the mandate of the Committee's mission to Uganda that is already planned with regard to other Ugandan cases before the Committee; *calls on* the parliamentary authorities to do their utmost to obtain a response from the executive authorities as soon as possible with regard to the organization of this mission; and *requests* the parliamentary authorities in the meantime to provide in writing the official views on the allegations made by the complainant with respect to Ms. Adeke's situation;
4. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
5. *Requests* the Committee to continue examining this case and to report back to it in due course.

Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)*



MEXICO CITY, MEXICO, 26 NOVEMBER 2022: The dialogue and negotiation process between the Government of the Bolivarian Republic of Venezuela and the Unitary Platform of Venezuela resumed in Mexico city © Silvana Flores / ANADOLU AGENCY / Anadolu Agency via AFP

- | | |
|-----------------------------------|--|
| VEN-10 – Biagio Pilieri | VEN-86 – Edgar Zambrano |
| VEN-11 – José Sánchez Montiel | VEN-87 – Juan Pablo García |
| VEN-12 – Hernán Claret Alemán | VEN-88 – Cesar Cadenas |
| VEN-13 – Richard Blanco | VEN-89 – Ramón Flores Carrillo |
| VEN-16 – Julio Borges | VEN-91 – María Beatriz Martínez (Ms.) |
| VEN-19 – Nora Bracho (Ms.) | VEN-92 – María C. Mulino de Saavedra (Ms.) |
| VEN-20 – Ismael Garcia | VEN-93 – José Trujillo |
| VEN-22 – Williams Dávila | VEN-94 – Marianela Fernández (Ms.) |
| VEN-24 – Nirma Guarulla (Ms.) | VEN-95 – Juan Pablo Guanipa |
| VEN-25 – Julio Ygarza | VEN-96 – Luis Silva |
| VEN-26 – Romel Guzamana | VEN-97 – Eliezer Sirit |
| VEN-27 – Rosmit Mantilla | VEN-98 – Rosa Petit (Ms.) |
| VEN-28 – Renzo Prieto | VEN-99 – Alfonso Marquina |
| VEN-29 – Gilberto Sojo | VEN-100 – Rachid Yasbek |
| VEN-30 – Gilber Caro | VEN-101 – Oneida Guaipe (Ms.) |
| VEN-31 – Luis Florido | VEN-102 – Jony Rahal |
| VEN-32 – Eudoro González | VEN-103 – Ylidio Abreu |
| VEN-33 – Jorge Millán | VEN-104 – Emilio Fajardo |
| VEN-34 – Armando Armas | VEN-106 – Angel Alvarez |
| VEN-35 – Américo De Grazia | VEN-108 – Gilmar Marquez |
| VEN-36 – Luis Padilla | VEN-109 – José Simón Calzadilla |
| VEN-37 – José Regnault | VEN-110 – José Gregorio Graterol |
| VEN-38 – Dennis Fernández (Ms.) | VEN-111 – José Gregorio Hernández |
| VEN-39 – Olivia Lozano (Ms.) | VEN-112 – Mauligmer Baloa (Ms.) |
| VEN-40 – Delsa Solórzano (Ms.) | VEN-113 – Arnoldo Benítez |
| VEN-41 – Robert Alcalá | VEN-114 – Alexis Paparoni |
| VEN-42 – Gaby Arellano (Ms.) | VEN-115 – Adriana Pichardo (Ms.) |
| VEN-43 – Carlos Bastardo | VEN-116 – Teodoro Campos |
| VEN-44 - Marialbert Barrios (Ms.) | VEN-117 – Milagros Sánchez Eulate (Ms.) |
| VEN-45 – Amelia Belisario (Ms.) | VEN-118 – Denncis Pazos |

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VEN-46 – Marco Bozo	VEN-119 – Karim Vera (Ms.)
VEN-48 – Yanet Fermin (Ms.)	VEN-120 – Ramón López
VEN-49 – Dinorah Figuera (Ms.)	VEN-121 – Freddy Superlano
VEN-50 – Winston Flores	VEN-122 – Sandra Flores-Garzón (Ms.)
VEN-51 – Omar González	VEN-123 – Armando López
VEN-52 – Stalin González	VEN-124 – Elimar Díaz (Ms.)
VEN-53 – Juan Guaidó	VEN-125 – Yajaira Forero (Ms.)
VEN-54 – Tomás Guanipa	VEN-126 – Maribel Guedez (Ms.)
VEN-55 – José Guerra	VEN-127 – Karin Salanova (Ms.)
VEN-56 – Freddy Guevara	VEN-128 – Antonio Geara
VEN-57 – Rafael Guzmán	VEN-129 – Joaquín Aguilar
VEN-58 – María G. Hernández (Ms.)	VEN-130 – Juan Carlos Velasco
VEN-59 – Piero Maroun	VEN-131 – Carmen María Sivoli (Ms.)
VEN-60 – Juan A. Mejía	VEN-132 – Milagros Paz (Ms.)
VEN-61 – Julio Montoya	VEN-133 – Jesus Yanez
VEN-62 – José M. Olivares	VEN-134 – Desiree Barboza (Ms.)
VEN-63 – Carlos Paparoni	VEN-135 – Sonia A. Medina G. (Ms.)
VEN-64 – Miguel Pizarro	VEN-136 – Héctor Vargas
VEN-65 – Henry Ramos Allup	VEN-137 – Carlos A. Lozano Parra
VEN-66 – Juan Requesens	VEN-138 – Luis Stefanelli
VEN-67 – Luis E. Rondón	VEN-139 – William Barrientos
VEN-68 – Bolivia Suárez (Ms.)	VEN-140 – Antonio Aranguren
VEN-69 – Carlos Valero	VEN-141 – Ana Salas (Ms.)
VEN-70 – Milagro Valero (Ms.)	VEN-142 – Ismael León
VEN-71 – German Ferrer	VEN-143 – Julio César Reyes
VEN-72 – Adriana d'Elia (Ms.)	VEN-144 – Ángel Torres
VEN-73 – Luis Lippa	VEN-145 – Tamara Adrián (Ms.)
VEN-74 – Carlos Berrizbeitia	VEN-146 – Deyalitza Aray (Ms.)
VEN-75 – Manuela Bolívar (Ms.)	VEN-147 – Yolanda Tortolero (Ms.)
VEN-76 – Sergio Vergara	VEN-148 – Carlos Prospero
VEN-78 – Oscar Ronderos	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	

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 the right to 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
- ✓ Impunity
- ✓ Other violations: right to privacy

A. Summary of the case⁴

The case concerns allegations of human rights violations affecting 135 parliamentarians⁵ 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 Nicolas 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 during demonstrations, inside parliament and/or at their homes. 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 36 parliamentarians are in exile, six have recently returned to Venezuela, 23 are engaged in court proceedings, and many of them have been barred from holding public office. 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 Nicolas 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.

A joint mission, composed of members of both the IPU Committee on the Human Rights of Parliamentarians (CHRP) and the IPU Executive Committee, visited Venezuela from 23 to 27 August 2021. The delegation was able to meet with a large variety of state authorities and stakeholders as well as with more than 60 of the 135 parliamentarians elected in 2015 with cases under examination by the CHRP, thereby obtaining first-hand information on their individual situations.

In August 2022, the complainant informed the Committee that, on 4 August 2022, Mr. Juan Requesens, a parliamentarian elected in 2015, was sentenced to eight years in prison for his alleged involvement in what the Venezuelan authorities defined as a failed assassination attempt involving drones carrying explosives against President Nicolas Maduro in Caracas in 2018. During the same proceedings, the judge issued an arrest warrant and an extradition request against Mr. Julio Borges, former Speaker of the National Assembly, who is currently living abroad.

On 26 November 2022, the Unitary Platform of the Venezuelan political opposition and representatives from President Nicolas Maduro’s Government resumed talks in Mexico City. The parties signed a humanitarian agreement focused on education, health, food security, flood response and electricity programmes that would benefit the Venezuelan people. Negotiations are expected to continue.

Case VEN-COLL-06

Venezuela: Parliament affiliated to the IPU

Victims: 135 opposition members of parliament (93 men and 42 women)

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

Submission of complaint: March 2017

Recent IPU decision: October 2022

IPU mission: August 2021

Recent Committee hearings: Hearings with members of the governing and opposition parties at the 141st IPU Assembly (October 2019)

Recent follow-up:

- Communication from the authorities: *Note Verbale* from the Permanent Mission of Venezuela in Geneva (September 2021)
- Communication from the complainant: February 2023
- Communication to the authorities: letter to the executive authorities (December 2022)
- Communication to the complainant: February 2023

⁴ For the purposes of this decision, the term “opposition members of parliament” relates to parliamentarians from political groups or parties whose decision-making power was limited in parliament and who were opposed to the ruling power.

⁵ In this decision, the use of the term “parliamentarian” should be construed as referring to both women and men elected in 2015 as members of the National Assembly and by no means as expressing an opinion on the validity of their parliamentary mandate at the present time.

According to the complainant and to publicly available information, on 7 January 2023, the 49th Court of Control of the Criminal Judicial Circuit of the Metropolitan Area of Caracas issued an arrest warrant against three parliamentarians elected in 2015, Ms. Dinorah Figuera, Ms. Marianela Fernández and Ms. Auristela Vásquez, for “the alleged responsibility for the offences of usurpation of authority, treason, conspiracy to commit crimes and money laundering”. All three are currently living 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.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Remains deeply concerned* that Mr. Juan Requesens has been sentenced to eight years in prison in a trial that, according to the complainant, failed to meet national and international standards of due process, an allegation that seems credible if considered in the light of information received during the IPU mission to Venezuela in August 2021; *is also concerned* that, during the same proceedings, the judge reportedly issued an arrest warrant and an extradition request against Mr. Julio Borges and that in January 2023 an arrest warrant was also issued against Ms. Dinorah Figuera, Ms. Marianela Fernández and Ms. Auristela Vásquez; *reiterates its view* that Mr. Requesens’ continued deprivation of liberty since August 2018, first in *El Helicoide*, a detention centre operated by the Bolivarian National Intelligence Service and then under house arrest since August 2020, as well as the arrest warrants issued against Mr. Borges, Ms. Figuera, Ms. Fernández and Ms. Vásquez should be seen as reprisals for their political activities; *wishes* to receive official and detailed information on the facts justifying each of the charges brought against them as well as copies of the relevant court decisions; and *urges* the national authorities to take all necessary steps to ensure that the rights of Mr. Requesens, Mr. Borges, Ms. Figuera, Ms. Fernández and Ms. Vásquez are fully respected;
2. *Reaffirms* its long-standing position that the continued harassment of opposition parliamentarians elected in 2015, despite the expiration of their mandate, is a direct consequence of the prominent role they played as outspoken opponents of President Nicolas Maduro’s Government and as members of the then opposition-led National Assembly; *urges* the authorities, once again, to put an immediate end to all forms of persecution against the opposition parliamentarians elected in 2015, to thoroughly investigate and establish accountability for reported violations of their rights, and to ensure that all relevant state authorities respect their human rights, including the right of those who are currently living in exile to voluntarily return in safety to Venezuela; and *calls on* the Venezuelan authorities to provide official information on any steps taken to this end;
3. *Reiterates* that the issues involved in the present case are part of the broader complex situation in Venezuela, which can only be resolved through inclusive political dialogue and by the Venezuelans themselves and *welcomes* in this regard the resumption of the talks between Government and opposition representatives; *firmly hopes* that discussions will continue and that the outcomes of this process will allow the various national stakeholders, including civil society, to work together to 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, as well as to create the necessary conditions to conduct future elections accepted by all parties; *reaffirms* the IPU’s readiness to provide support for any effort to strengthen democracy in Venezuela; and *calls on* the relevant authorities to provide further information on how best to provide such assistance;
4. *Recalls*, 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”; *expresses its hope*, therefore, that the outcomes of the ongoing dialogue will also contribute to guaranteeing that opposition candidates, including all former opposition parliamentarians who have been barred

from holding public office 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; and *encourages* the relevant authorities and the parties involved in the talks to take all necessary measures in this regard;

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 the ongoing process of dialogue as well as of the resolution of the individual cases at hand in a manner consistent with democratic and human rights values;
6. *Requests* the Secretary General to convey this decision to the relevant Venezuelan institutions, 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.

*

* *