



Inter-Parliamentary Union
For democracy. For everyone.

148th IPU Assembly

Geneva, 23–27 March 2024

Governing Council
Item 13(a)

CL/213/13(a)-R.2
Geneva, 27 March 2024

Committee on the Human Rights of Parliamentarians

*Decisions adopted by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*

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Bangladesh

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(Geneva, 27 March 2024)*



Shah Ams Kibria (right) presents the national budget in parliament on 13 June 1997 © MUFTY MUNIR / AFP

BGD-14 – Shah Ams Kibria

Alleged human rights violations

- ✓ Murder
- ✓ Excessive delays in proceedings

A. Summary of the case

Mr. Shah Ams Kibria, a member of parliament belonging to the then opposition Awami League, was killed on 27 January 2005 in a grenade attack during a political gathering. According to the complainant, the killing was politically motivated.

Almost 20 years have gone by and no one has yet been held accountable for the killing. It has been investigated three times by three different governments (the Bangladesh Nationalist Party, the caretaker government, and currently the Awami League). With each investigation, the list of persons charged has been expanded but a number of them have not been apprehended. A trial is under way but is progressing extremely slowly. The complainant has also raised a number of issues relating to general concerns about the independence of the judiciary and respect for fair-trial guarantees in Bangladesh and the fact that all the suspects targeted seem to be from the political opposition, which could indicate that the proceedings are politically motivated.

According to the complainant, Mr. Kibria's relatives – who are a party to the criminal proceedings – have not been kept informed of the proceedings. They repeatedly filed no-confidence motions against the successive charge sheets, which they considered incomplete. The family continue to believe that other individuals involved in the crime, particularly the

Case BGD-14

Bangladesh: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

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

Submission of complaints: March and October 2005

Recent IPU decision: April 2017

IPU Mission(s): - - -

Recent Committee hearings:

- Hearing with the Bangladeshi delegation to the 148th Assembly (March 2024)
- Hearing with the complainant – online (March 2023)

Recent follow-up:

- Communication from the authorities: Report providing updates about the case shared by the Bangladeshi delegation to the 148th Assembly (March 2024)
- Communication from the complainant: March 2024
- Communication to the authorities: Letter to the Speaker of Parliament (February 2024)
- Communication to the complainant: March 2024

potential instigators and masterminds, have not yet been charged or arrested owing to political interference. In March 2023, at a hearing before the Committee on the Human Rights of Parliamentarians, the complainant confirmed that the situation had not changed.

During the hearing conducted at the 148th IPU Assembly (Geneva, March 2024), the Bangladeshi delegation reaffirmed that judicial proceedings in Bangladesh take time, that courts have limited capacity and resources, and that the delays in the investigation were largely caused by the defendants, and by the family contesting the charge sheets and investigation reports. Acknowledging that justice delayed is justice denied, the delegation committed to continue to keep the IPU informed of any new developments in the case and to do its utmost, within parliament's constitutional mandate, to contribute to a satisfactory resolution of the case without further undue delay.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Bangladeshi delegation for the information provided during the hearing and for the spirit of cooperation; and *reaffirms its wish* to receive more detailed information on a regular basis on developments in the ongoing trial proceedings, including copies of the charge sheets, as well as further information on the grounds and evidence supporting the charges against the suspects, the names and status of all suspects and the identities of all individuals who remain charged today and those who are in custody;
2. *Notes* that the proceedings are still under way and that slow progress is being made; *takes note* of the reasons given by the parliamentary authorities in this respect; *remains deeply concerned*, however, that almost 20 years after the attack none of the perpetrators has yet been held responsible in a court of law; *solemnly affirms* that justice delayed is justice denied; and *sincerely hopes* that the trial will finally proceed swiftly and that further progress will promptly be made towards ensuring full accountability for this serious crime, in compliance with national and international standards on the right to a fair trial, including those regarding the application of capital punishment, without any political interference;
3. *Fails to understand why* the Awami League, in power since 2009, has not been able to take the necessary steps to shed light on the murder of one of its prominent members; *reaffirms*, in this regard, its strong conviction that the continued interest of the Awami League and parliament in the case – within the boundaries of the separation of powers – is crucial for helping ensure that justice is done and for sending a strong signal that the assassination of a parliamentarian must not be left unpunished; *notes with appreciation* that the Parliament of Bangladesh continues to monitor the case; and *wishes* to be kept informed of any steps it takes in this regard;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
5. *Requests* the Committee to continue examining this case and to report back to it in due course.

Egypt

*Decision adopted unanimously by the IPU Governing Council at its 213th session
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Mostafa al-Nagar © Photo courtesy/Belady - An Island for Humanity, US

EGY-07 – Mostafa al-Nagar

Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Mr. Mostafa al-Nagar allegedly disappeared in the southern governorate of Aswan on 27 September 2018. His family and lawyers have been unable to contact him or obtain information on his whereabouts. They fear that he might have been arbitrarily arrested and held incommunicado.

The complainants allege that Mr. al-Nagar was a symbol of the 2011 revolution and a vocal critic of the Egyptian Government during his parliamentary term, which lasted from 23 January to 14 June 2012, when the Egyptian Parliament was dissolved in accordance with a ruling by the Supreme Constitutional Court. In December 2017, he was fined and sentenced to three years in prison for "insulting the judiciary" in a speech he reportedly delivered during a parliamentary sitting in 2012. In its ruling of 30 December 2017, the Cairo Criminal Court found that Mr. al-Nagar had committed two crimes in 2012 and 2013, the first of which consisted in insulting and defaming the courts and the judicial authorities with hate speech and disdainful speech, both published and via interviews on television and radio channels, as well as through social media. The complainants also allege that the court reportedly found that Mr. al-Nagar's statements during a parliamentary sitting of 2012 were also intended to defame and harm the judiciary and

Case EGY-07

Egypt: Parliament affiliated to the IPU

Victim: male, independent member of the House of Representatives

Qualified complainants: Section I.(1) (a) and (d) of the Committee Procedure (Annex I)

Submission of complaint: February 2020

Recent IPU decision: March 2022

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Egyptian delegation to the 144th IPU Assembly (March 2022)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (March 2022)
- Communication from the complainants: March 2024
- Communication to the authorities: Letter to the Speaker of the House of Representatives (March 2024)
- Communication to the complainants: March 2024

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judges. Mr. al-Nagar did not serve his time in prison as he chose to go into hiding, although at the time it was clear to his family members where he was. He disappeared a few days before his appeal trial, which took place on 15 October 2018.

The complainants report that, on 10 October 2018, Mr. al-Nagar's family received an anonymous telephone call informing them that he was in police custody at Aswan's Central Security Forces Al-Shallal camp. Mr. al-Nagar's lawyer made a request to the Egyptian authorities for an official response concerning his client's alleged detention in the Al-Shallal camp, but no information was provided in this regard. Egypt's State Information Service denied playing a role in Mr. al-Nagar's disappearance and said in an official statement issued on 18 October 2018 that he had wilfully disappeared to avoid serving his prison sentence, describing him as a fugitive.

In their letter of 24 May 2021, the Egyptian parliamentary authorities indicated that the Egyptian Court of Cassation's decision of 15 October 2018 concerned the rejection of Mr. al-Nagar's appeal to have his original sentence set aside. The letter explains that the decision of the Court of Cassation to reject the accused's appeal against his original sentence was not because of his absence from the Criminal Court hearing. Egyptian law had been correctly applied, allowing the accused's defence to appear before the Criminal Court in his absence. As the Court had agreed to that arrangement, the ruling against the accused had therefore become a ruling *in absentia*; it had been the accused's right to appeal against it, in order to benefit from the different litigation levels to which he was entitled.

On 29 July 2019, the complainants filed a complaint at the Administrative Court of the State Council against the Egyptian Ministry of the Interior for allegedly failing to disclose Mr. al-Nagar's whereabouts or to make serious efforts to locate him. In its decision handed down on 18 January 2020, the Administrative Court of the State Council recalled the State's responsibility and indicated that the statement issued by the State Information Service was insufficient. The Court noted that the State and the police force, which in accordance with Article 1 of the Law on the Regulation of Police authority (Law No. 109 of 1971), "is a regular body of the Ministry of the Interior that performs its functions and exercises its jurisdiction under the leadership of the Ministry of the Interior", had the duty to locate disappeared individuals, especially when a complaint had been filed about their disappearance.

In their letter of 24 May 2021, the Egyptian parliamentary authorities expressed their views about the case. The authorities also added that the crime committed by Mr. al-Nagar was not related to his parliamentary mandate and that he was not prosecuted for the remarks he made in parliament. The parliamentary authorities argued that, between 2012 and 2013, Mr. al-Nagar and other individuals were accused of undermining the judiciary and judges through written articles and comments, remarks made during interviews and messages posted on social media containing false and hateful statements against the Egyptian courts and the judiciary. The authorities also indicated that parliamentary immunity should not protect members of parliament from prosecution when the crimes committed are punishable by law. The authorities stated that parliament was dissolved in accordance with the ruling by the Supreme Constitutional Court issued in the session of 14 June 2012 and that the effect of this decision is retroactive. The aforementioned had therefore never exercised, at any point in time, representational functions.

During a hearing with the IPU Committee on the Human Rights of Parliamentarians at the 144th IPU Assembly in March 2022, the Egyptian delegation emphasized the importance of the Committee's work and elaborated on the views and arguments expressed by the authorities in their letter of 24 May 2021. The Egyptian delegation highlighted that the authorities were convinced that the case of Mr. al-Nagar should not be under consideration by the IPU as the aforementioned does not exercise, and has never exercised, any representational functions, according to the June 2012 Supreme Constitutional Court ruling. However, they were willing to engage with the Committee in good faith to clarify some issues.

The delegation also stated that, in response to the ruling of the Administrative Court of the State Council of 18 January 2020, the Egyptian authorities had exerted efforts to locate the absent person by taking several measures, including through distributing circulars with Mr. al-Nagar's details to all police stations in all Egyptian governorates seeking information on his whereabouts. The delegation also indicated that, despite the complainants' claim that Mr. al-Nagar has been subjected to enforced disappearance, there is no evidence that he is a victim of enforced disappearance and that such a crime is subject to a set of criteria that have not been met in the present case. The authorities consider

that Mr. al-Nagar is “absent”, given that he went into hiding in order to avoid serving his prison sentence, as indicated by his family members. The delegation stated that the representational functions of members of parliament would not allow incumbents to commit crimes, would not justify the commission of such crimes and would not present a barrier to bringing them before a criminal court. The principle of separation of powers would therefore not allow former and current members of the legislative authority to interfere in the work of the judicial authority; to insult or influence its members; or to launch media campaigns against them to influence their rulings and decisions. The delegation clarified that the criminal charges against Mr. al-Nagar were because of remarks he had made outside of parliament, not in a parliamentary context whatsoever, and reiterated that the complaint under consideration did not have any factual or legal foundation; rather, it was based on rhetoric that was dubious and void of any legal evidence.

In December 2022, the complainants stated that in 2018 Mr. al-Nagar’s lawyer had submitted a request to the Attorney General of Aswan, to track Mr. al-Nagar’s phone number (011555879436) to determine his last location. According to the complainants, such information should have been quite easy to obtain and would have shed light on Mr. al-Nagar’s whereabouts in 2018.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Deeply regrets* that the Egyptian House of Representatives has stopped responding to its requests for information since 2022; and *reiterates* that the Committee’s procedure is based on ongoing and constructive dialogue with the authorities, first and foremost parliament;
2. *Recalls* the measures taken by the authorities to locate Mr. al-Nagar, including the distribution of circulars with his details to several police stations in different provinces calling for information on his whereabouts; and *deeply regrets* that, despite its wish to receive written confirmation from the authorities concerned that such measures have indeed been taken and to be informed of the results yielded so far, this information has yet to reach the Committee;
3. *Stresses*, once again that, while the State of Egypt considers Mr. al-Nagar to be a fugitive and “absent”, it remains duty-bound to do everything possible to find him and that, by not taking serious measures to locate him, the authorities are wilfully denying justice to his relatives, who have the legitimate right to know about his fate; and *remains convinced* that the State of Egypt could exert further efforts to locate Mr. al-Nagar, particularly in light of the complainant’s request to track Mr. al-Nagar’s phone number to identify his last location;
4. *Urges*, once more, the authorities to take the appropriate measures to truly address the disappearance of Mr. al-Nagar and to find him, through a fully-fledged investigation into his whereabouts, regardless of his conviction and the fact that he did not serve his prison sentence; and *wishes* to be kept informed as a matter of urgency about steps taken in this regard;
5. *Reiterates its concern* that Mr. al-Nagar was convicted for criticizing the judiciary when he was a member of parliament, which is part of the legitimate exercise of his parliamentary mandate and should be protected by his parliamentary immunity; *affirms*, once more, in this respect that freedom of expression is one of the pillars of democracy, that it is essential for members of parliament, and that it encompasses all kinds of speech, the restrictions on which are defined by the core human rights conventions and related case law;
6. *Reiterates its wish* to receive copies of the decisions of the Cairo Criminal Court and Court of Cassation of 2017 and 2018, respectively, in addition to further information on the status of missing persons in Egypt, including the required criteria to be met for the authorities to initiate an investigation into the disappearance of individuals whose families have filed a complaint about their disappearance;
7. *Requests* the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information on the whereabouts of Mr. al-Nagar;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Eswatini

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

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

Alleged human rights violations

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

A. Summary of the case

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

Case SWZ-COLL-01

Eswatini: Parliament affiliated to the IPU

Victims: Three independent members of parliament

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

Submission of complaint: January 2022

Recent IPU decision: February 2024

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

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

Recent follow-up:

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

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 parliamentarians also advocating for these changes. To prove that these members of parliament had the mandate from their constituencies to make this call resulted in a series of petitions being delivered to parliament in support of the call for change. Protesters were calling for constitutional and political reforms, lamenting the Government's reported failure to deliver basic services to its citizens, demanding responses to socioeconomic challenges, and invoking alleged ill-treatment by police. Petitions were delivered to various *tinkhundla* centres, 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 Khan, an attorney and former acting chief magistrate in Botswana, with over 40 years of legal experience, was appointed by the IPU to attend and follow the final trial proceedings against Mr. Mabuza and Mr. Dube, namely those which took place from 8 to 10 and 14 to 16 November and on 13 December 2022.

In his first report, the trial observer pointed 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. It appears extremely surprising that their bail has been consistently refused". In his general comments and assessment of the trial, the trial observer stated 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".

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

In his most recent report, the IPU trial observer, upon reviewing the verdict, stated that "if we examine the statements attributed to them (Mr. Mabuza and Mr. Dube) by the learned judge, a careful analysis in fact does not reflect criminal intent. Throughout the evidence as appears in the record, there is no exhortation on the Swazi public to rise up in insurrection, overthrow the Monarchy and establish a government of the people. In fact, the accused are very deferential towards the Monarchy, almost religiously so. The entire case rests on the response by the accused to the declaration by the government that it was banning the production of petitions and for the appointment of the Prime Minister by election. The incidents of civil unrest occurred on 24 June 2021. It is abundantly clear from the gravamen of the charges, that the accused were no way near the scene of the crime. It is the effect of what they stated that reflects what the State says is the foundation of their criminal conduct:

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that they encouraged people in their public statements to disobey the lawful appointment of the Prime Minister and in the process encouraged civil disobedience. But, with respect, how can civil disobedience be equated with terrorism and sedition? There was no armed insurrection, no taking up of arms with revolutionary slogans against the State, no intentional destruction of the most visible manifestations of state power. How encouraging people to disobey the government on the issue of denying the filing of petitions automatically led to arrests for terrorism without showing a direct link between rhetoric and causation is difficult to appreciate”.

According to the complainant, on 22 September 2022, the two detained parliamentarians were assaulted by prison guards who entered their cells. It is alleged that on 29 September 2023, Mr. Mabuza was again beaten by a correctional services officer. At the hearing held with the Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly, the Eswatini delegation provided an undated document containing information on the internal inquiry under the Correctional Services Act that provides a response to parliament regarding the alleged attack against Mr. Mabuza and Mr. Dube. The document states that there was a routine search, that Mr. Mabuza refused to be searched and that, while being ordered to adhere to the search, Mr. Mabuza then attacked the officer attending. Mr. Dube then joined in and attacked the officer from behind and then other officers used pepper spray to calm down the situation. There was never an assault on Mr. Mabuza and Mr. Dube.

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 then Speaker responded that he would welcome such a delegation. Subsequent attempts by the IPU to organize the mission have, however, not yet borne fruit with the Eswatini authorities. At the hearing held with the Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly, the Eswatini delegation stated that the Committee was still welcome to come to Eswatini.

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

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

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Eswatini delegation to the 148th IPU Assembly for the extensive and valuable information provided at a hearing with the Committee on the Human Rights of Parliamentarians and its spirit of cooperation; *appreciates* the written communications that the parliamentary authorities have sent to the IPU throughout the treatment of this case; and *points out* that these communications have always been acknowledged and have always received a response;
2. *Takes note with great interest* of the latest report from the IPU trial observer; and *thanks* him for his thorough analysis and for his continued readiness to attend and report on the legal proceedings at hand;
3. *Is deeply concerned* that Mr. Mabuza and Mr. Dube were found guilty as a result of a trial that had shown serious shortcomings, as identified in the trial observer's reports; *is ever more convinced* that these reports, and the reasons given by the judge for the verdict she reached, give serious weight to the complainant's assertion that the criminal case 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; *strongly believes*, therefore, that both men should never have been detained and prosecuted in the first place; and *sincerely hopes* that the matter will still be resolved, in a way that is in line with applicable human rights standards, before the men are sentenced;
4. *Notes with great interest* that the planned national dialogue has taken place in Eswatini; *wishes* to receive more information on the concrete recommendations made in the course of the national dialogue and on specific actions planned to implement them, in particular in the area of political and democratic reforms; and *reiterates* the IPU's readiness to provide support for ongoing efforts in this regard;
5. *Reaffirms its belief* 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; *is pleased to learn* that the Eswatini delegation informed the Committee on the Human Rights of Parliamentarians, at the hearing held during the 148th IPU Assembly, that such a mission would still be welcome; and *requests* the Secretary General to continue to engage with the current parliamentary authorities of Eswatini to dispatch the mission as soon as possible;
6. *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;
7. *Requests* the Committee to continue examining the case and to report back to it in due course.

Guinea-Bissau

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



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

Alleged human rights violations

- ✓ Abduction¹
- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity

A. Summary of the case

The present case concerns the situation of four members of the National Assembly of Guinea-Bissau, including its speaker, Mr. Domingos Simões Pereira, Mr. Marciano Indi, Mr. Agnelo Regalla and Mr. Bamba Banjai, who have suffered human rights violations since 2020 for publicly criticizing the

Case GNB-COLL-01

Guinea-Bissau: Parliament affiliated to the IPU

Victims: Four opposition members of parliament

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

Submission of complaint: March 2024

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing: Hearing with the complainant during the 148th IPU Assembly in Geneva (March 2024)

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: March 2024
- Communication to the authorities: Letter to the President of the Republic: March 2024
- Communication to the complainant: March 2024

¹ This violation only concerns member of parliament Mr. Marciano Indi.

President of the Republic, Mr. Umaro Sissoco Embaló, and the Prime Minister, Mr. Nuno Gomes Nabiam.

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

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

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

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

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

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

During a hearing before the Committee on the Human Rights of Parliamentarians at the 148th IPU Assembly in March 2024, the Bissau-Guinean parliamentary delegation, led by the President of the National People's Assembly, thanked the Committee for its interest and for its invitation to a hearing. The Speaker of Parliament acknowledged the many difficulties his country had faced in achieving political stability. Regarding the cases under examination by the Committee, the Speaker of Parliament explained that they were related to the November 2019 presidential elections, which had resulted in the disputed victory of President Embaló. After being declared the winner by the Electoral Commission in February 2020, Mr. Embaló had ended the PAIGC-led government by appointing a new prime minister. In October 2021, a coup d'état had reportedly been foiled, followed by a second attempt in February 2022. In May 2022, the President had decided to dissolve the parliament resulting from the March 2019 legislative elections, with legislative elections scheduled for December 2022. In the end, these were not held until June 2023.

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

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

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the case of Mr. Domingos Simões Pereira, Mr. Marciano Indi, Mr. Agnelo Regalla and Mr. Bamba Banjai is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants 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 incumbent members of parliament at the time of the alleged facts; and (iii) concerns allegations of abduction, threats, acts of intimidation, lack of due process at the investigation stage, violation of freedom of opinion and expression, violation of freedom of assembly and association, violation of freedom of movement, arbitrary invalidation of the election of a parliamentarian, abusive revocation or suspension of the parliamentary mandate, failure to respect parliamentary immunity, other acts obstructing the exercise of the parliamentary mandate, and impunity, which are allegations that fall within the Committee's mandate;

2. *Thanks* the parliamentary authorities of Guinea-Bissau for the information provided during their meeting with the Committee on the Human Rights of Parliamentarians at the 148th IPU Assembly;
3. *Denounces* the violations suffered by the four parliamentarians, in particular the abduction of Mr. Indi, the violent attack perpetrated against Mr. Regalla and the arbitrary arrest of Mr. Banjai, violations which have so far gone unpunished even though the identity of the alleged perpetrators is known; and *regrets* the absence of serious judicial investigations into these various cases and the failure of the Bissau-Guinean justice system to protect the physical integrity of these parliamentarians and to ensure that their rights are respected, including their right to freedom of expression and assembly;
4. *Urges* the competent authorities in Guinea-Bissau to take all necessary steps to ensure that the violations suffered by these four parliamentarians are properly investigated and that the perpetrators of these crimes are held accountable; and *stresses* that offences of this kind against opposition parliamentarians, particularly if they go unpunished, encourage their repetition and contribute to a climate of impunity in which other critical voices in society can no longer be heard, with potentially serious repercussions;
5. *Expresses its concern* at the dissolution of the Parliament of Guinea-Bissau in disregard of the relevant constitutional provisions, which is likely to have serious consequences for the democratic functioning of the country; *expresses its solidarity* with the Parliament of Guinea-Bissau; *stresses* that its dissolution directly affects the individual rights of members of parliament, including its President, Mr. Pereira, and deprives the citizens of Guinea-Bissau of political representation; and *hopes*, in view of the information received at the hearing, that parliamentary functions will be restored as soon as possible to facilitate a return to the rule of law in the country;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining the case and to report back to it in due course.

Israel

**Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)**



© Member of Knesset Ofer Cassif

ISR-22 – Ofer Cassif

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

On 10 January 2024, Mr. Ofer Cassif was subjected to an expulsion procedure initiated by a fellow member of the Knesset, who accused him of supporting armed struggle and terrorism against the State of Israel for publicly supporting South Africa's case at the International Court of Justice (ICJ). South Africa had filed a case at the ICJ alleging that Israel was engaging in "genocidal acts" in Gaza following its response to the 7 October 2023 attack by Hamas.

After collecting the signatures of 85 members of the Knesset supporting Mr. Cassif's expulsion, the issue was referred to the Knesset House Committee for approval. According to the Israeli Basic Law, the Knesset can expel a member if (s)he expresses support for armed struggle against the State of Israel, provided that 90 Knesset members, or 75 per cent, have voted in favour of the motion.

On 30 January 2024, after a sitting that lasted two days, the Knesset House Committee endorsed the motion to expel Mr. Cassif. Fourteen Committee members had voted in favour of and two against the motion, which moved the motion for expulsion to the Knesset plenary. Mr. Cassif has reiterated that his support for South Africa's case against Israel is a plea to end the war in Gaza. He also said in

Case ISR-22

Israel: Parliament affiliated to the IPU

Victim: An opposition member of parliament

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

Submission of complaint: January 2024

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: - - -
- Communication from the complainant: February 2024
- Communication to the authorities: Letter to Knesset Speaker (January 2024)
- Communication to the complainant: February 2024

several interviews that he had condemned the 7 October attack against Israel and that he had never shown any support to the terrorist group Hamas.

On 19 February 2024, the motion to expel Mr. Cassif failed to gain the needed majority in plenary, as only 85 of the 120 members of the Knesset backed the motion to oust Mr. Cassif in a plenum session, which was five votes short of the 90-seat supermajority required. Despite the failure of the expulsion process, the complainant underlined that those who voted in favour of Mr. Cassif's expulsion were the Knesset Speaker, Prime Minister Netanyahu, and the Chair of the Ethics Committee.

The complainant added that Mr. Cassif was the victim of unfair and undemocratic proceedings and that his political orientation, being the only Jewish member of the Arab-majority Hadash-Ta'al party, was the reason behind his persecution. The complainant stated that since the expulsion case began there has been a constant rise in threats against Mr. Cassif, who requires permanent security protection.

On 7 October 2023, Hamas-led gunmen from the Gaza Strip launched an attack in southern Israel, deliberately killing civilians and taking hostages back to Gaza. In response to the attack, Israel launched an offensive against Gaza, which has caused large-scale loss of human lives and widespread destruction. In December 2023, South Africa filed a case at the ICJ alleging that Israel was engaging in "genocidal acts" in Gaza. South Africa requested the ICJ to order Israel to halt operations in Gaza immediately and to rule on several interim steps to be taken against Israel, which has strongly rejected the allegation, calling it "baseless". On 26 January 2024, the ICJ issued "emergency measures", instructing the State of Israel to prevent its military from committing acts that might be considered genocidal, to prevent and punish incitement to genocide, and to enable the provision of humanitarian assistance to the people of Gaza. Israel is obliged to comply with the ICJ's measures.

On 25 March 2024, the United Nations Security Council passed a resolution expressing deep concern about the catastrophic humanitarian situation in the Gaza Strip and demanding an immediate ceasefire for the month of Ramadan, the immediate and unconditional release of hostages, as well as "the urgent need to expand the flow of humanitarian assistance to and reinforce the protection of civilians in the entire Gaza Strip".

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Ofer Cassif was not declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure for the examination and treatment of complaints on 26 March 2024;
2. *Notes* in this regard that, although the Committee considered that all other admissibility criteria had been met, the fact that the motion to expel Mr. Cassif had failed to pass in plenary and that he was able to retain his parliamentary seat in the Knesset meant that the basis for the original complaint had become moot;
3. *Deeply regrets*, however, that Mr. Cassif was the subject of an expulsion procedure for expressing his opinion on a public issue and that he was the target of hateful comments and intimidation due to his political affiliation; and *also regrets* the lack of response of the Israeli authorities regarding the complaint of Mr. Cassif, despite its repeated requests for information;
4. *Expresses concern* that members of the Knesset could be expelled on the basis of opinions and comments expressed publicly because they are deemed to be against the State of Israel; and *considers* that the reasons for which the expulsion procedure can be invoked infringe upon the right to freedom of expression of members of the Knesset and hinder the legitimate exercise of their parliamentary mandate, which should be protected by parliamentary immunity;
5. *Calls on* the Israeli authorities to ensure that the rights of members of the Knesset, including their right to freedom of opinion and expression, are upheld and their parliamentary immunity is protected; and *underlines* in this respect that freedom of expression goes to the heart of democracy, is essential to members of parliament and includes not only speech, opinions and expressions that are favourably received or regarded as inoffensive, but also those that may offend, shock or disturb others;

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6. *Requests* the Secretary General to convey this decision to the Speaker of the Knesset and the complainant.

Kyrgyzstan

**Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)**



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KGZ-02 – Adakhan Madumarov

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Mr. Adakhan Kumsanbayevich Madumarov is a seasoned parliamentarian and former Speaker of the Kyrgyz Parliament, the *Jogorku Kenesh* (Supreme Council). Mr. Madumarov was the main challenger to interim President Sadyr Japarov in the 2021 presidential elections, and is also the leader of *Butun Kyrgyzstan* (United Kyrgyzstan), one of the largest opposition parties in parliament. According to the complainant, on 2 September 2023, as Mr. Madumarov was out on a stroll with his 13-year-old son, they were both arrested by a *Spetsnaz* (special forces) unit led by agents of the Central Investigative Department of the Interior Ministry. His son was later released and the parliamentarian transferred to the Bishkek Pervomaysky District Court, where he was charged with high treason and ordered to be held in pretrial detention in a State Committee on National Security (GKNB) remand prison. Shortly after his arrest, GKNB Chairperson Kamchybek Tashiev made statements that seemed to presume Mr. Madumarov's guilt.

The complainant stresses that Mr. Madumarov has remained in detention until now with no possibility of continuing to carry out his mandate, as every appeal for his release has been rejected without justification. In addition, the complainant claims that Mr. Madumarov faces mistreatment and inhumane conditions of detention while being arbitrarily detained, as he suffers from a range of serious chronic health conditions, including type-2 diabetes and serious hypertension. The complainant stresses that the prolonged detention of Mr. Madumarov violates sections 3 and 6 of Government of

Case KGZ-02

Kyrgyzstan: 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: January 2024

Recent IPU decision: February 2024

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the delegation of Kyrgyzstan to the 148th IPU Assembly in Geneva (March 2024)

Recent follow-up:

- Communication(s) from the authorities:
- - -
- Communication from the complainant:
January 2024
- Communication to the authorities:
February 2024
- Communication to the complainant:
January 2024

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the Kyrgyz Republic Decree No. 296 of 20 June 2018 on the approval of the list of serious diseases preventing the detention of suspects and accused persons.

The complainant adds that, in March 2022, the *Jogorku Kenesh* rejected the Prosecutor General's initial request to lift Mr. Madumarov's immunity. However, following a new request in June 2023, parliamentarians rejected charges related to preparing mass riots and attempting to seize power but allowed the abuse of power case against Mr. Madumarov to go ahead. The complainant stressed that the fact that the authorities subsequently upgraded the abuse of power charge to the charge of high treason was never explained and therefore maintains that the arbitrary arrest of Mr. Madumarov violates his parliamentary immunity. The complainant adds that the authorities later introduced embezzlement charges related to an old electoral donation supported by questionable evidence. The complainant adds that parliament's approval to prosecute in the embezzlement charge case was never sought and stresses that both charges have exceeded the statute of limitations. The complainant adds that the Pervomaysky District Court further violated Mr. Madumarov's rights by extending his custody and declaring the proceedings a closed trial. The complainant highlights the arbitrary classification of the case as "secret", imposing a non-disclosure obligation on Mr. Madumarov's lawyers and undermining their ability to defend their client.

According to the complainant, the charge of high treason against Mr. Madumarov is related to his participation in a bilateral meeting with officials of Tajikistan in March 2009, where he was sent, together with a larger delegation, as Secretary of the Security Council to discuss long-standing issues related to the undemarcated border between the two countries. The complainant adds that Mr. Madumarov was acting on instructions from the then President of Kyrgyzstan when he co-signed the protocol (minutes) of the meeting, during which the idea of a land swap had been discussed. According to the complainant, the document carries no legal value, as it was neither endorsed by parliament nor implemented.

The complainant concludes that the reason for Mr. Madumarov's detention, which violates Kyrgyz due process standards, is to punish him for his criticism of the authorities, including his opposition to a recent controversial land-swap deal with Uzbekistan, and to attempt to stamp out opposition in parliament. Statements from his party describe a campaign of "unthinkable threats, psychological pressure and criminal prosecution" following the 2020 elections and the subsequent political upheaval. Regarding Mr. Madumarov specifically, the statement reads that there is "no doubt that the protocol of 2009 is just a pretext for the total destruction of our party and our leader".

During the 148th IPU Assembly, the IPU Committee on the Human Rights of Parliamentarians met with representatives of the Permanent Mission of the Kyrgyz Republic to the United Nations Office and other international organizations in Geneva, who responded to its questions related to the case. In particular, they elaborated on the sensitive nature of the border dispute with Tajikistan following an armed attack by Tajik armed forces in September 2022, which had caused 64 casualties and 250,000 internally displaced persons. According to the authorities, the seriousness of this matter had led the presiding judge to conduct the trial in secret. As a result, much of the information sought by the Committee could not be made available. Nevertheless, the representatives of the authorities undertook to share with the Committee any information that was made available as soon as possible. In addition, the authorities stated that during a court hearing on 19 March 2024 the prosecutor had requested that Mr. Madumarov be found guilty of both offences with no prison sentence, as the statute of limitations had expired for both charges. On 26 March 2024, the complainant communicated that Mr. Madumarov was found guilty of abuse of power and embezzlement but received no prison sentence. However, the complainant reports that he has to remain in detention until the criminal proceedings have been concluded, which is apparently unlawful.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Madumarov, a member of the Kyrgyz Parliament at the time of the initial allegations, was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure for the examination and treatment of complaints on 7 February 2024;
2. *Thanks* the representatives of the Permanent Mission of the Kyrgyz Republic to the United Nations Office and other international organizations in Geneva for the information provided at a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly in Geneva; and *looks forward* to receiving additional information from the relevant authorities, in particular from parliament, in response to its queries;
3. *Is dismayed* that Mr. Madumarov has remained in prison for more than seven months with no possibility of exercising his mandate; *fails to see why* his arrest and prolonged detention were necessary to investigate the allegations made against him; *is worried* by reports that his detention puts his health at risk and by the allegation that the repeated requests for an end to his deprivation of liberty on the grounds that his detention is unlawful have been dismissed without justification; and *calls on* the authorities to release Mr. Madumarov without delay;
4. *Expresses concern* over reports that he was arrested despite the fact that his immunity had not been lifted for the charges brought against him; *is concerned* that the Chairperson of the GKNB reportedly made statements that seemed to presume Mr. Madumarov's guilt shortly after his arrest; *is deeply worried* by multiple allegations that his right to a fair trial has been denied and that the evidence presented against him is unrelated to the charges brought; *welcomes* the information provided by the authorities that Mr. Madumarov is not expected to be sentenced to prison as the statute of limitations for the charges has expired; *calls on* the authorities to make every effort to protect Mr. Madumarov's rights to a fair trial and to exercise his parliamentary mandate without any undue interference and to ensure that he is able to resume his parliamentary duties without delay; and *looks forward* to hearing from the parliamentary authorities on the points made above;
5. *Requests* the Secretary General to convey this decision to the Speaker of the Kyrgyz Parliament (*Jogorku Kenesh*), the complainant and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining the case and to report back to it in due course.

Madagascar

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



© Facebook - Fetra Ralambozafimbololona Razafitsimalona

MDG-17 – Fetra R. Razafitsimalona

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Excessive delays in proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

On 8 November 2023, during a demonstration by a group of 10 presidential candidates, member of parliament Fetra R. Razafitsimalona was arrested for taking part in an unauthorized demonstration held to protest against the lack of transparency of the presidential election. According to the complainants, the presidential election was considered fraudulent in view of the measures taken by the incumbent government, including the excessive use of force to break up the demonstrators. In addition, seven months before the official start of the presidential election, the Minister of the Interior had reportedly announced a ban on political demonstrations in public places.

The complainants claim that the member of parliament was detained on the premises of the Criminal Investigation Unit of Fiadanana and that his appearance before the Public Prosecutor's Office was extended by 48 hours for no valid reason. He was subsequently charged with inciting the population to take part in unauthorized demonstrations and was briefly remanded in custody before being released on 17 November 2023 under judicial supervision.

Case MDG-17

Madagascar: Parliament affiliated to the IPU

Victim: An opposition member of parliament

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

Submission of complaint(s): November 2023

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (March 2024)
- Communication from the complainants: November 2023
- Communications to the authorities: Letters to the Speaker of the National Assembly: (March 2024)
- Communication to the complainants: March 2024

Mr. Razafitsimalona was supposed to be tried on 19 December 2023 but the decision was postponed to 30 January, then 6 February and then again to 12 March 2024. The complainants stated that the court had referred the case to the High Constitutional Court because of the objection of unconstitutionality raised by the parliamentarian's lawyers, who claimed that Mr. Razafitsimalona had been arrested, detained and charged in violation of his constitutional right to parliamentary immunity as guaranteed under article 73 of the Constitution of Madagascar.

The complainants state that the accusations made against Mr. Razafitsimalona violate his right to freedom of expression and assembly. Further, they allege that the proceedings were brought against him because he had peacefully expressed his opposition to the conditions in which the presidential election was held.

In their letter of 18 March 2024, the parliamentary authorities stated that the National Assembly had taken a number of measures to protect Mr. Razafitsimalona's rights. Indeed, after a meeting with the members of the Standing Bureau, the Assembly had decided to send a letter to the Minister of Justice on 6 December 2023 to ask that Mr. Razafitsimalona's parliamentary immunity be respected, recalling the relevant constitutional provisions during the parliamentary session. In their letter to the Minister of Justice, the parliamentary authorities recalled that, in line with the provisions of article 73, paragraph 2, of the Constitution and article 112 of the National Assembly's Rules of Procedure, any proceedings brought against parliamentarians during a parliamentary session required their parliamentary immunity to be lifted. The parliamentary authorities recalled that the request to lift parliamentary immunity should be made in writing, by the Minister of Justice, to the Standing Bureau of the National Assembly, which was not done.

The parliamentary authorities added that some members of parliament had heckled the Minister of Justice when she visited the National Assembly during its recent extraordinary sitting in February 2024. The Speaker of the Assembly said in her letter that she had received no official, satisfactory response to date.

Further, the parliamentary authorities said in their letter of 18 March 2024 that the objection of unconstitutionality raised by Mr. Razafitsimalona's lawyers had been deemed inadmissible by the High Constitutional Court in its decision of 22 February 2024, a copy of which was forwarded to the Committee by the National Assembly. In its decision, the High Constitutional Court considered that the objection of unconstitutionality formulated by Mr. Razafitsimalona, seeking to interpret article 73 of the Constitution on parliamentary immunity and *flagrante delicto*, could be likened to a request for an opinion for the purposes of interpretation of a constitutional provision. However, under article 119 of the Constitution, that privilege was reserved exclusively for heads of institutions and for all decentralized local government bodies. The High Constitutional Court thus considered that the parliamentarian's referral of the case to the court could not be considered to be an objection of unconstitutionality within the meaning of article 118² of the Constitution, and that it should therefore be declared inadmissible.

The decision of the Antananarivo Court on Mr. Razafitsimalona's case will be handed down on 9 April 2024.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Fetra R. Razafitsimalona is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants 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 the National Assembly at the time of the alleged facts;

² Article 118, paragraph 1, of the Constitution of Madagascar: "A Head of Institution or one quarter of the members of one of the Parliamentary Assemblies or the bodies of the decentralized local government or the High Council for the Defence of Democracy and the Rule of Law may refer to the Constitutional Court, for review of constitutionality, any legislative or regulatory text as well as all matters falling within its jurisdiction".

- and (iii) concerns allegations of threats and acts of intimidation, arbitrary arrest and detention, excessive duration of proceedings, violation of freedom of opinion and expression, violation of freedom of assembly and association, violation of freedom of movement and violation of parliamentary immunity, allegations which fall under the Committee's mandate;
2. *Thanks* the parliamentary authorities for their letter of 18 March 2024; *welcomes* the measures taken by the National Assembly to protect Mr. Razafitsimalona's rights, including his right to parliamentary immunity; and *wishes* to be kept informed of any response received from the Minister of Justice;
 3. *Regrets* that Mr. Razafitsimalona has been tried for carrying out his parliamentary mandate by participating in a demonstration held to denounce the decisions taken by the incumbent government the day before the presidential election; *expresses its concern* at the decision of the Minister of the Interior to ban political demonstrations in public places; and *considers* that this decision constitutes a serious violation of the civil and political rights of Malagasy citizens;
 4. *Calls on* the judicial authorities to drop the charges against Mr. Razafitsimalona; and *hopes* that the decision to be handed down on 9 April 2024 by Antananarivo Court will clear the parliamentarian of the charges against him, since they appear to be based merely on the peaceful exercise of his rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights, to which Madagascar has acceded;
 5. *Notes* the decision of the High Constitutional Court dismissing the objection of unconstitutionality raised by Mr. Razafitsimalona; *stresses*, nevertheless, that parliamentary immunity constitutes one of the most fundamental rights of the representatives of the people, the aim of which is to guarantee their right to freedom of opinion and expression and protect them from politically motivated judicial proceedings; and *encourages* the Malagasy authorities to take all necessary measures to improve the protection of the rights of all parliamentarians, including the right to freedom of opinion and expression;
 6. *Requests* the Secretary General to convey this decision to the Speaker of the Parliament of Madagascar, the complainants and any third party likely to be in a position to supply relevant information;
 7. *Requests* the Committee to continue examining the case and to report back to it in due course.

Pakistan

**Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)**



Security forces stand guard outside Attock prison, where Mr. Imran Khan is being held. | Abdul MAJEED / AFP

PAK-26 – Muhammad Azam Khan Swati

PAK-27 – Imran Khan

PAK-28 – Aliya Hamza Malik (Ms.)

PAK-29 – Ejaz Chaudhary

PAK-30 – Kanwal Shauzab (Ms.)

Alleged human rights violations

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

A. Summary of the case

The current case concerns five parliamentarians from the *Pakistan Tehreek-e-Insaf* (PTI) party who, according to the complainant, have been persecuted as a result of their opposition to the military authorities of Pakistan following a vote of no confidence that ousted Mr. Imran Khan's government on

Case PAK-COLL-01

Pakistan: Parliament affiliated to the IPU

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

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

Submission of complaints: December 2022 and September 2023

Recent IPU decision: October 2023

IPU Mission(s): - - -

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

Recent follow-up:

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

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14 April 2022. The complainant reports that, since then, the authorities have interfered with the demonstrations organized by Mr. Khan by arresting over 400 PTI officials and banning rallies over vaguely defined security concerns. According to the complainant, despite mounting pressure, Mr. Khan and his supporters continued their marches to demand fresh elections. The complainant reports that protesters were frequently met with a disproportionate use of force, which left Ms. Shauzab with long-term injuries.

The complainant also reports that, on 13 October 2022, Senator Azam Swati was abducted by armed men belonging to the Federal Investigation Agency (FIA), tortured and arbitrarily detained following a tweet criticizing the outgoing chief of staff, General Qamar Javed Bajwa. On 26 November 2022, Mr. Swati was arrested by the FIA again hours after posting a tweet criticizing Mr. Bajwa and detained at an undisclosed location, raising fears that he was the victim of enforced disappearance. However, after a campaign to secure his release by a number of parliamentarians, he was freed on bail on 3 January 2023. The bail order contained a warning, however, that should Mr. Swati "repeat the offence" the order would be revoked.

The complainant reports that, on 4 November 2022, Mr. Khan was shot and wounded while leading a peaceful protest. The complainant alleges the gun attack was one of several assassination attempts on Mr. Khan and reports that these incidents were not properly investigated, as Mr. Khan's complaints to the police against Director General of Counter Intelligence Faisal Naseer remained unregistered for a prolonged time, prompting the intervention of the Supreme Court. The complainant reports that, on 8 March 2023, the police stormed his residence and brutalized Mr. Khan's staff, leading to the death of a PTI official. According to the complainant, following the attack on Mr. Khan's residence, his supporters were banned from protesting and the media were banned from mentioning Mr. Khan's name.

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

According to the complainant, Mr. Khan was later released, following a Supreme Court ruling that his arrest was illegal. However, the complainant reports that Mr. Khan was violently arrested on 5 August 2023 and sentenced to three years in prison, deprived of his seat and barred from taking part in elections for five years over the alleged sale of state gifts. Since then, Mr. Khan has faced over 180 charges, including leaking state secrets, corruption, treason and organizing violent protests. On 29 August 2023, the Islamabad High Court suspended his conviction and freed him on bail, yet Mr. Khan remained in prison on the basis of a multitude of other charges against him. According to the complainant, Mr. Khan then remained in maximum-security prisons reserved for terrorists and violent militants where he is kept in appalling conditions. The complainant adds that Mr. Khan's health has deteriorated considerably in recent weeks and that he has been denied adequate medical assistance and visits from a physician of his choice, raising fears that he is being slowly killed. The complainant also shared concerns for the health of Ms. Hamza and Mr. Chaudhary and alleged that they faced similar obstructions while they are being held on remand. According to the complainant, their trials are riddled with violations of due process and excessive delays. On 31 January 2024, Mr. Khan and his wife were handed a 14-year prison term in the "state gifts case", a day after another special court found Mr. Khan guilty of disclosing state secrets, sentencing him to 10 years and removing his political rights days before general elections were held.

A trial observer mandated by the IPU travelled to Islamabad on 23 July 2023 to follow the trial *in absentia* of Mr. Swati and prepared a report based on the information provided by the state attorneys and his lawyer. According to the report, his arrest and detention "may be described as a punishment for his exercise of the rights to freedom of expression and opinion". The trial observer also concluded that judicial and executive authorities interpret the relevant laws in such a way that "no citizen is

allowed to criticize [the] army". In addition, the report expressed concern at the use of multiple charges for the same occurrence, suggesting that the motive of that practice was to keep him in custody.

The complainant emphasizes that the authorities have targeted female members of parliament to silence the voice of women who support the PTI. In particular, the complainant reports that Ms. Hamza is subjected to frequent invasive body searches during the night and held in close proximity to hardened criminals as a way to intimidate her. The complainant further reports that Ms. Shauzab, the President of the PTI women's wing, has received threats calling on her to leave political life. The complainant shared copies of these threats with the Secretariat and stressed that her complaints to the authorities were to no avail. According to the complainant, these violations have to be seen within a pattern of state repression and impunity designed to create an atmosphere of fear and intimidation for the opposition.

During a hearing with the Committee on the Human Rights of Parliamentarians, a member of the Pakistani delegation to the 147th IPU Assembly indicated that several procedures are available to allow PTI parliamentarians to seek redress, including by requesting that the parliamentary leadership issue production orders to allow detained parliamentarians to take part in parliamentary sessions, and invited PTI parliamentarians to follow these procedures. However, the complainant later shared that all production orders delivered were ignored by the security sector.

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Pakistan to the 148th IPU Assembly for its willingness to meet with the Committee on the Human Rights of Parliamentarians and for its cooperation, even though, for reasons that are independent of the availability of the Pakistani delegation, the meeting did not take place; and *hopes* that such a meeting can take place in the future;
2. *Strongly regrets* that the authorities did not see fit to implement the decision of the Governing Council of 27 October 2023 and did not allow the parliamentarians in this case to take part in the 2024 general elections freely; *considers*, in light of the information made available to it, that the intimidation faced by the parliamentarians concerned amounts to a violation of their right to take part in the conduct of public affairs as enshrined in the International Covenant on Civil and Political Rights, to which Pakistan is a party; and *strongly believes* that parliament bears a responsibility to identify and address the root causes of what led to this outcome and do its utmost to ensure that such violations do not recur in the future, so that all members of parliament are able to take part in future elections without any undue interference;
3. *Is profoundly concerned* by the increasingly grave allegations conveyed by the complainant in this case, including allegations of torture, inhumane treatment and arbitrary arrest and detention; *is deeply concerned* by information shared by the families of the detained parliamentarians who took part in a hearing with the Committee during its 173rd session in January 2024, including reports of the inhumane conditions of detention of the detained parliamentarians, as well as by the practice of issuing numerous first information reports for the same occurrences with the alleged intention of keeping Mr. Khan, Ms. Hamza and Mr. Chaudhary in prison, even though they had received several judgments ordering their release; *urges* the competent authorities to release all detained parliamentarians without delay and to ensure that all their rights are fully respected; until then, *calls on* the authorities to urgently provide detailed information on the three detained parliamentarians above, including on their location, their state of health, their ability to receive visits from a physician of their choice

and from their family members without any undue interference; and *wishes* to be informed of the outcome of the actions taken by parliament within its constitutional powers and prerogatives to that end;

4. *Is also concerned* by the persistent pattern of allegations of lack of due process and impunity in previous cases of parliamentarians in Pakistan; *is particularly shocked* by allegations that such violations are being used to pressure opposition parliamentarians into changing their allegiance and by reports that only such parliamentarians who have yielded to pressure are relieved from arbitrary actions against them; and *considers* in this regard that parliament has a vested interest and an undeniable duty to ensure that the rights of all its members, irrespective of their political allegiance, opinion or religion, are fully protected and that no affront to their rights and dignity is left unpunished, irrespective of the position of the violators;
5. *Hopes* to be able to rely on the support of parliament in ensuring that the rights of parliamentarians in this case are protected in full, including their right to a fair trial; and *reiterates its wish* to be kept informed of the dates of the trial and of any other relevant judicial developments in the case, as well as to receive a copy of the relevant legal provisions in preparation for an upcoming trial observation mission to Pakistan;
6. *Is convinced* that, in light of the aforesaid concerns, a Committee mission to Pakistan to discuss the issues at hand directly with all the relevant authorities and other stakeholders is needed more than ever in order to help find swift satisfactory solutions to these cases in accordance with applicable national and international human rights standards; *sincerely hopes*, therefore, that the Pakistani authorities will be able to receive this mission as soon as practicable; and *requests* in this regard the Secretary General to engage with the parliamentary authorities of Pakistan with a view to the dispatch of the mission as soon as possible;
7. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Palestine/Israel

**Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)**



Men walk past a section of Israel's separation barrier painted with a portrait of Palestinian Marwan Barghouti held in an Israeli jail ©HAZEM BADER / AFP

PSE-02 – Marwan Barghouti

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of fair trial proceedings

A. Summary of the case

Mr. Marwan Barghouti, an elected member of the Palestinian Legislative Council (PLC) in the constituency of Ramallah on the West Bank since January 1996 and widely known, according to several sources, for advocating a just and lasting peace in the Middle East, was arrested on 15 April 2002 in Ramallah by the Israeli Defence Forces and transferred to a detention facility in Israel. He was charged with murder, attempted murder and involvement in terrorist organizations. His trial before the Tel Aviv District Court started on 14 August 2002 and ended on 6 June 2004, when the court sentenced him to five life sentences and two 20-year prison terms. Despite being in prison, Mr. Barghouti was re-elected as a member of parliament for his constituency in the 2006 Palestinian legislative elections.

The complainants have raised a series of legal objections to Mr. Barghouti's arrest and prosecution, alleging that he was ill-treated, especially at the start of his detention, and was denied access to legal counsel. The Committee appointed a legal expert and lawyer, Mr. Simon Foreman, to report on the trial. His 2003 report, on which the Israeli authorities have not provided their observations, stated that, "the numerous breaches of international law ... make it impossible to conclude that Mr. Barghouti was given a fair trial" and that guilt had therefore not been established.

Case PSE-02

Palestine/Israel: The Palestinian Legislative Council and the Parliament of Israel are affiliated to the IPU

Victim: Member of the Palestinian Legislative Council, member of the majority

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

Submission of complaint: April 2002

Recent IPU decision: November 2020

IPU mission(s): - - -

Recent Committee hearings:

- Hearing with the Palestinian complainants at the 162nd session of the CHRP (October 2020) and hearing with head of the parliamentary group of Fatah at the 139th IPU Assembly (October 2018)

Recent follow-up:

- Communications from the authorities: Letter from the head of the Knesset delegation to the IPU (March 2024); letter from the Speaker of the Palestinian National Council (October 2020)
- Communication from the complainants: March 2024
- Communications to the authorities: Letter to the Knesset Speaker (December 2023); letter to the Speaker of the Palestinian National Council (December 2023)
- Communication to the complainants: March 2024

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Mr. Foreman stated in his report that those breaches started with the illegal arrest and transfer of Mr. Barghouti to Israel in violation of the Oslo Agreements and the Fourth Geneva Convention. According to the report, Mr. Barghouti's claims that he was subjected to cruel, inhuman and degrading treatment during the interrogations have never been investigated. Regarding the conduct of the trial proceedings, the trial observer indicated that none of the prosecution witnesses, all Palestinians, had testified against Mr. Barghouti and provided any evidence of his involvement in the acts of which he is accused. On the contrary, some of them contested their "confessions" as having been obtained under duress, while others stated that they were forced to sign documents in Hebrew that they did not understand, and others took the opportunity to denounce Israeli politics in the occupied territories. Moreover, according to one of the sources, on 6 April 2003 the court reportedly accepted as Mr. Barghouti's testimony a report written by the Israeli intelligence services that Mr. Barghouti had refused to sign. Mr. Foreman also noted that, at the first hearings, the public present in the court room displayed a hostile attitude, calling Mr. Barghouti a "murderer, terrorist".

According to Mr. Barghouti's defence counsel, the charges brought against Mr. Barghouti were entirely based on secret reports that he had not seen, and the questions put to him by his interrogators were only about documents taken from Palestinian National Authority (PNA) offices, namely requests for financial or social support addressed to Mr. Barghouti. As a parliamentarian and former Secretary General of Fatah-West Bank, Mr. Barghouti used to receive such requests, which he forwarded to Mr. Arafat's office.

In the early years of his detention, several members of the Knesset called for the release of Mr. Barghouti, such as Knesset member Mr. Amir Peretz in March 2008, when he stated that Mr. Barghouti could be a key element in attaining stability and assuming responsibility of the PNA, and Mr. Gideon Ezra, a member of Kadima. Following Mr. Barghouti's election in August 2009 to Fatah's Central Committee, the Israeli Minister for Minority Affairs, Mr. Avishai Braverman, also expressed his support for his release.

On 17 April 2017, Mr. Barghouti initiated a mass hunger strike, joined by more than 1,000 Palestinian inmates, to protest against the abusive and inhumane conditions in which Palestinian inmates were allegedly being held by the Israeli authorities. While the Israeli prison service (IPS) had agreed to grant some of the detainees' requests, including increasing the number of monthly visits, the complainants stated that such requests had not been met.

During the hearing held with the Palestinian complainants in October 2020, the Committee on the Human Rights of Parliamentarians gathered information on the situation of Mr. Barghouti and other Palestinian inmates in Israeli prisons, including on visitation rights, which were severely restricted due to the COVID-19 pandemic. The Committee also learned about the difficult conditions that family members of those detained have to meet before they are granted access to visit their loved ones, which include International Committee of the Red Cross (ICRC) confirmation, Israeli permission to enter the country and making the lengthy trip to the prison facility. During the October 2020 hearing, the complainants also described the dire detention conditions in Israeli prisons, particularly their overcrowding. In their letter of 18 October 2020, the Israeli parliamentary authorities did not provide any information on Mr. Barghouti's conditions of detention, including his visiting rights.

The Committee on the Human Rights of Parliamentarians invited the Israeli authorities to a hearing during its session held during the 144th IPU Assembly in March 2022 to discuss Mr. Barghouti's case and resume dialogue. In their letter of 10 March 2022, the Israeli authorities declined the Committee's hearing invitation, considering that Mr. Barghouti had been duly convicted in a fair trial conducted in an Israeli court for murder, attempted murder and membership of a terrorist organization. The Israeli authorities added that, in light of these elements, they see "no reason to alter their position *vis-à-vis* the Committee on this case or any others pertaining to terrorists convicted in Israeli courts".

On 7 October 2023, Hamas-led gunmen from the Gaza Strip launched an attack in southern Israel, deliberately killing civilians and taking hostages back to Gaza. In response to the attack, Israel launched an offensive against Gaza, which has caused large-scale loss of human lives and widespread destruction.

According to recent information shared by the complainants, Mr. Barghouti's detention conditions, as well as those of all the Palestinian inmates detained in Israeli prisons, have deteriorated since the Hamas attack of 7 October.

Since the beginning of the recent conflict, Mr. Barghouti has been transferred three to five times to unknown detention facilities in Israel. His lawyer reported that he was placed in solitary confinement for being suspected of planning the subsequent uprising (Intifada) in the West Bank and Gaza. According to the lawyer of another inmate, who saw Mr. Barghouti in his cell while visiting his client, the former member of parliament's face was covered in blood and displayed clear signs of beating. Mr. Barghouti's family stated that the Israeli prison service's officers are torturing him with regular beatings and sleep deprivation through playing the Israeli national anthem and the Israeli Declaration of Independence at full volume in his cell. Mr. Barghouti has no access to medical care and has lost significant weight due to the severe limitations imposed by the IPS on the food supply in all prison cells. According to his family, Mr. Barghouti and other Palestinians detained in Israel are fed two spoons of rice and a tomato per day.

Mr. Barghouti is also denied access to showers, hygiene essentials and water, which the IPS has reportedly restricted to less than an hour a day. The toilets are not functional, thereby denying Mr. Barghouti minimum sanitary standards. Additionally, Mr. Barghouti's belongings, including his clothes and books, have been confiscated and he has no contact with the outside world. Mr. Barghouti's family fear that the continued physical torture and the lack of medical care will have life-threatening consequences.

Mr. Barghouti's family stated that they have not been able to visit him for the past two years, as the Israeli authorities have been systematically denying their visit requests. Since the 7 October attack, the ICRC, the only organization allowed by the Israeli authorities to visit Palestinian inmates held in Israel, has been denied access to Israeli prisons, while family visits facilitated by the ICRC have been prohibited. Only lawyers have been granted the right to visit their clients. In this regard, Mr. Barghouti received two visits from his lawyer, who reported on his state and his dire detention conditions.

According to a public report³ issued by Israeli human rights organizations, including the Public Committee Against Torture in Israel and Physicians for Human Rights Israel on 16 February 2024, "since Hamas' attack on October 7, 2023, and the subsequent Israeli offensive on Gaza, there has been a marked and severe escalation in the abuse of Palestinian detainees and prisoners incarcerated in Israeli prisons and detention facilities. Over the last four months, at least seven Palestinians have died while in custody in Israeli prisons and ad-hoc detention facilities, with initial evidence and testimonies suggesting that at least some of these deaths were connected to instances of severe violence by IPS officers". The report aims to address the widespread abuse inflicted by IPS officers on Palestinian prisoners.

In their letter of 18 March 2024, the Israeli parliamentary authorities reiterated their long-standing view that Mr. Barghouti is a terrorist mastermind who was held for questioning and sentenced to five consecutive life terms and another 40 years in prison, adding that he has only served 20 years so far. The parliamentary authorities stated that "under no circumstances should the IPU make light of a terrorist unaffiliated with Hamas, adding that Mr. Barghouti is a Fatah terrorist leader. From Israel's point of view, there is no difference between him, and a terrorist associated with Hamas, Islamic Jihad, Al-Qaeda, or ISIS". With regard to the detention conditions of Mr. Barghouti, the parliamentary authorities stated that the Red Cross was responsible for carrying out these inspections and that the prison authorities carefully review and consider the recommendations of every Red Cross report and implement changes when necessary.

With regard to the situation in Gaza, on 25 March 2024, the United Nations Security Council passed a resolution expressing deep concern about the catastrophic humanitarian situation in the Gaza Strip and demanding an immediate ceasefire for the month of Ramadan, the immediate and unconditional release of hostages, as well as "the urgent need to expand the flow of humanitarian assistance to and reinforce the protection of civilians in the entire Gaza Strip."

³ [Systemic torture and inhumane treatment of Palestinian detainees in Israeli prison facilities since October 7, 2023 - Urgent Appeal to the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, authored by the Public Committee Against Torture in Israel; Adalah - the Legal Center for Arab Minority Rights in Israel; HaMoked - Center for the Defence of the Individual; and Physicians for Human Rights Israel, 14 February 2024.](#)

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Takes note* of the Israeli parliamentary authorities' letter of 18 March 2024; and *regrets*, however, the Israeli authorities' lack of willingness to engage constructively with the Committee about the case of Mr. Barghouti and the lack of concrete information on his detention conditions;
2. *Expresses deep concern* about the deteriorating detention conditions of Mr. Barghouti, including his apparent unjustified transfer to various detention centres and placement in solitary confinement in the absence of any valid reason; the reported torture and ill-treatment inflicted upon him; the reported denial of medical care and family visits; the lack of food, water, electricity and the deprivation of his basic human rights as a detainee, which could have life-threatening consequences; *urges* the Israeli authorities to treat Mr. Barghouti with respect for his inherent dignity and value as a human being, to prevent torture and other forms of ill-treatment, to investigate thoroughly the very serious allegations about his current treatment and to take the necessary action that may be warranted as a result of the outcome of the investigation;
3. *Deplores* the reported continued arbitrary decisions of the Israeli authorities with regard to Mr. Barghouti's visiting rights, which have not been respected, given that his family has been denied access to visit him for the past two years; *firmly recalls* the United Nations Standard Minimum Rules for the Treatment of Prisoners, according to which Mr. Barghouti's visitation rights should not be subject to arbitrary decisions authorizing or denying visits; *calls on* the relevant Israeli authorities to ensure that Mr. Barghouti is entitled to family visiting rights in accordance with the law and relevant international standards; and *wishes* to ascertain his current conditions of detention, with respect in particular to the frequency of visits and access to medical care;
4. *Reaffirms*, once more, its views that members of parliament are not above the law and that when they commit crimes they should be held accountable in a court of law following due process; *recalls* that Mr. Barghouti was a serving member of the Palestinian Legislative Council when charges of terrorism were brought against him; *recalls* in this regard the stringent legal arguments put forward in Mr. Foreman's report of 2003, on which the Israeli authorities have never provided their observations, that Mr. Barghouti's trial did not correspond to the fair trial standards that Israel, as a party to the International Covenant on Civil and Political Rights, was bound to respect; and *recalls*, in light of the report, that Mr. Barghouti's transfer to Israel had breached the Oslo Agreements and the Fourth Geneva Convention and had led the IPU to urge the Israeli authorities to transfer Mr. Barghouti to the custody of the Palestinian authorities with a view to his being prosecuted and judged by them, in accordance with international law and international fair trial standards;
5. *Affirms* that while it condemns the Hamas attack on 7 October 2023, deplores the lives it claimed and is deeply concerned about the fate of the remaining hostages, it considers that the State of Israel must uphold the rule of law and must stop any collective punitive measures against Palestinian detainees, including Mr. Barghouti, for unjustified reasons; and *calls on* the Israeli authorities to grant unrestricted access to Mr. Barghouti by his family and lawyer as well as the ICRC and ensure that his detention conditions are in line with Israel's obligations under international law;
6. *Sincerely hopes* that the Israeli authorities will consider the Committee's long-standing request to be granted permission to visit Mr. Barghouti;
7. *Stresses*, once more, that the many national and international reports denouncing the conditions of detention of Palestinian prisoners in Israeli prisons should be of concern to the Knesset; *reaffirms* that the Knesset can, and should, exercise its oversight function of the Israeli prison service with regard to the treatment of Palestinian prisoners and thereby help ensure that all persons under the jurisdiction and effective control of Israel are afforded the full enjoyment of the rights enshrined in the International Covenant on Civil and Political Rights; and *wishes* to know if the Knesset and individual members are allowed to carry out impromptu prison visits and, if so, to receive information on the applicable legal framework;

8. *Requests* the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report to it in due course.

Palestine/Israel

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



Palestinian supporters of the PFLP take part in a protest calling for the release of Ahmad Sa'adat imprisoned in Israel © Majdi Fathi/Nur Photo

PSE-05 – Ahmad Sa'adat

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of fair trial proceedings

A. Summary of the case

On 14 March 2006, Mr. Ahmad Sa'adat was abducted by the Israeli Defence Forces from Jericho Jail and transferred to Hadarim Prison in Israel, together with four other prisoners, after being accused by the Israeli authorities of involvement in the October 2001 murder of Mr. R. Zeevi, the Israeli Minister of Tourism. The Israeli authorities concluded one month later that Mr. Sa'adat had not been involved in the killing, but went on to charge the other four suspects. Subsequently, 19 other charges were brought against Mr. Sa'adat, all arising from his leadership of the Popular Front for the Liberation of Palestine (PFLP), which Israel considers a terrorist organization. None of the charges allege direct involvement in crimes of violence. On 25 December 2008, Mr. Sa'adat was sentenced to 30 years in prison. While detained, Mr. Sa'adat reportedly did not receive the medical care he required, nor visits from his family. In March and June 2009, he was placed in solitary confinement, prompting him in June 2009 to go on a nine-day hunger strike. He remained in solitary confinement for three years, until May 2012.

In April 2017, Mr. Sa'adat took part in a mass hunger strike by Palestinian detainees to protest against their detention conditions in Israeli prisons. He was reportedly moved at that time to solitary confinement in Ohlikdar Prison. According to the information gathered during a hearing with the Palestinian

Case PSE-05

Palestine/Israel: The Palestinian Legislative Council and the Parliament of Israel are affiliated to the IPU

Victim: Majority member of the Palestinian Legislative Council

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

Submission of complaint: July 2006

Recent IPU decision: November 2020

IPU mission(s): - - -

Recent Committee hearing:

- Hearing with the Palestinian complainants at the 162nd session of the CHRP (October 2020), and hearing with the head of the parliamentary group of Fatah at the 139th IPU Assembly (October 2018)

Recent follow-up:

- Communications from the authorities: Letter from the head of the Knesset delegation to the IPU (March 2024); letter from the Speaker of the Palestinian National Council (October 2020)
- Communication from the complainant: March 2024
- Communications to the authorities: Letters to the Knesset Speaker and the head of the Knesset delegation to the IPU (March 2022); letter to the Speaker of the Palestinian National Council (December 2021)
- Communication to the complainant: March 2024

complainants in October 2020, the strike had also been triggered by the 2017 decision of the Israeli authorities to reduce the number of monthly visits to one instead of two visits per month. The complainants stated that the Israeli authorities had promised to increase the number of monthly visits; however, this has yet to be done.

During the hearing held with the Palestinian complainants in October 2020, the Committee on the Human Rights of Parliamentarians gathered information on the situation of Palestinian inmates in Israeli prisons, including on visitation rights, which were severely restricted due to the COVID-19 pandemic. The Committee also learned about the difficult conditions that family members of those detained have to meet before they are granted access to visit their loved ones, which include International Committee of the Red Cross (ICRC) confirmation, Israeli permission to enter the country and making the lengthy trip to the prison facility. During the October 2020 hearing, the complainants also described the dire detention conditions in Israeli prisons, particularly their overcrowding. In their letter of 18 October 2020, the Israeli parliamentary authorities did not provide any information on Mr. Sa'adat's conditions of detention, including his visiting rights. The authorities suggested that the IPU should consider whether future correspondence relating to the case of Mr. Sa'adat was appropriate, given his involvement in terrorism-related crimes.

The Committee on the Human Rights of Parliamentarians invited the Israeli authorities to a hearing during its session held during the 144th IPU Assembly in March 2022 to discuss Mr. Sa'adat's case and resume dialogue. In their letter of 10 March 2022, the Israeli authorities declined the Committee's hearing invitation, considering that Mr. Sa'adat had been convicted for heading a terrorist group that, among other things, assassinated a member of the Israeli parliament and was sentenced to 30 years in prison. According to the authorities, Mr. Sa'adat was duly convicted in a fair trial conducted in an Israeli court for murder, attempted murder and membership of a terrorist organization. The Israeli authorities added that, in light of these elements, they see "no reason to alter their position *vis-à-vis* the Committee on this case or any others pertaining to terrorists convicted in Israeli courts".

On 7 October 2023, Hamas-led gunmen from the Gaza Strip launched an attack in southern Israel, deliberately killing civilians and taking hostages back to Gaza. In response to the attack, Israel launched an offensive against Gaza, which has caused large-scale loss of human lives and widespread destruction.

According to recent information shared by the complainant, Mr. Sa'adat's detention conditions, as well as those of all the Palestinian inmates detained in Israeli prisons, have deteriorated since the Hamas attack on 7 October. The ICRC, the only organization allowed by the Israeli authorities to visit Palestinian inmates held in Israel, has been denied access to Israeli prisons, while family visits facilitated by the ICRC have been prohibited. Only lawyers have been granted the right to visit their clients.

According to the complainant, Mr. Sa'adat was transferred from Rimon prison to an unknown detention facility in Israel. The former member of parliament was reportedly placed in solitary confinement. Mr. Sa'adat has allegedly no access to medical care, water or electricity due to the severe limitations imposed by the Israeli Prison Service (IPS) in all prison cells, which also extends to restrictions on food supply. Mr. Sa'adat is also denied access to showers, hygiene essentials and water, which the IPS has reportedly restricted to less than an hour a day. The toilets are not functional, thereby denying Mr. Sa'adat minimum sanitary standards.

According to a public report⁴ issued by Israeli human rights organizations, including the Public Committee Against Torture in Israel and Physicians for Human Rights Israel on 16 February 2024, "since Hamas' attack on October 7, 2023, and the subsequent Israeli offensive on Gaza, there has been a marked and severe escalation in the abuse of Palestinian detainees and prisoners incarcerated in Israeli prisons and detention facilities. Over the last four months, at least seven Palestinians have died while in custody in Israeli prisons and ad-hoc detention facilities, with initial evidence and testimonies suggesting that at least some of these deaths were connected to instances

4 [Systemic torture and inhumane treatment of Palestinian detainees in Israeli prison facilities since October 7, 2023 - Urgent Appeal to the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, authored by the Public Committee Against Torture in Israel; Adalah - the Legal Center for Arab Minority Rights in Israel; HaMoked - Center for the Defence of the Individual; and Physicians for Human Rights Israel, 14 February 2024.](#)

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of severe violence by IPS officers." The report aims to address the widespread abuse inflicted by IPS officers on Palestinian prisoners.

In their letter of 18 March 2024, the Israeli parliamentary authorities reiterated their long-standing view that Mr. Ahmad Sa'adat is a PFLP terrorist, who was responsible for planning the murder of Israeli MK Rehavam Zeevi. The authorities stated that "for this despicable act, he was arrested and sentenced to 30 years in prison". However, according to information on file, in 2006 the Israeli authorities dropped the charge of Mr. Sa'adat's involvement in Mr. Zeevi's murder after the Attorney General decided that there was insufficient evidence to try Mr. Sa'adat for the murder. Mr. Sa'adat was later found guilty of leading the PFLP and 19 charges were brought against him, but none allege direct involvement in offences of violence, although seven (dating from 1998 or earlier) alleged preparatory or secondary involvement in such acts.

With regard to the detention conditions of Mr. Sa'adat, the parliamentary authorities stated in their letter of 18 March 2024 that the Red Cross was responsible for carrying out these inspections and that the prison authorities carefully review and consider the recommendations of every Red Cross report and implement changes when necessary.

Concerning to the situation in Gaza, the United Nations Security Council passed a resolution on 25 March 2024 expressing deep concern about the catastrophic humanitarian situation in the Gaza Strip and demanding an immediate ceasefire for the month of Ramadan, the immediate and unconditional release of hostages as well as "the urgent need to expand the flow of humanitarian assistance to and reinforce the protection of civilians in the entire Gaza Strip."

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Takes note* of the Israeli parliamentary authorities' letter of 18 March 2024; and *regrets*, however, the Israeli authorities' lack of willingness to engage constructively with the Committee about the case of Mr. Sa'adat and the lack of concrete information on his detention conditions;
2. *Expresses deep concern* about the deteriorating detention conditions of Mr. Sa'adat, including his apparent unjustified transfer to an unknown detention facility and placement in solitary confinement in the absence of any valid reason; the reported denial of medical care and family visits; the lack of food, water, electricity and the deprivation of his basic human rights as a detainee; *urges* the Israeli authorities to treat Mr. Sa'adat with respect for his inherent dignity and value as a human being, to prevent torture and other forms of ill-treatment, to investigate thoroughly the very serious allegations about his current treatment and to take the necessary action that may be warranted as a result of the outcome of the investigation;
3. *Deplores* the continued arbitrary decisions of the Israeli authorities with regard to Mr. Sa'adat's visiting rights, which have been denied; *firmly recalls* the United Nations Standard Minimum Rules for the Treatment of Prisoners, according to which Mr. Sa'adat's visitation rights should not be subject to arbitrary decisions authorizing or denying visits; *calls on* the relevant Israeli authorities to ensure that Mr. Sa'adat is entitled to family visiting rights in accordance with the law and relevant international standards; and *wishes* to ascertain his current conditions of detention, with respect in particular to the frequency of visits and access to medical care;
4. *Reaffirms*, once more, its views that members of parliament are not above the law and that when they commit crimes they should be held accountable in a court of law following due process; *recalls* in this regard that Mr. Sa'adat's abduction and transfer to Israel had breached the Oslo Agreements and the Fourth Geneva Convention and were related not to the original murder charge but rather to his political activities as PFLP General Secretary;
5. *Affirms* that while it condemns the Hamas attack on 7 October 2023, deplores the lives it claimed and is deeply concerned about the fate of the remaining hostages, it considers that the State of Israel must uphold the rule of law and must stop any collective punitive measures against Palestinian detainees, including Mr. Sa'adat, for unjustified reasons; *calls on* the Israeli

authorities to grant unrestricted access to Mr. Sa'adat by his family and lawyer as well as the ICRC and ensure that his detention conditions are in line with Israel's obligations under international law;

6. *Reiterates* its long-standing request that the Committee be granted permission to visit Mr. Sa'adat; *sincerely hopes* the Israeli authorities will grant that request;
7. *Stresses*, once more, that the many national and international reports denouncing the conditions of detention of Palestinian prisoners in Israeli prisons should be of concern to the Knesset; *reaffirms* that the Knesset can, and should, exercise its oversight function of the Israeli prison service with regard to the treatment of Palestinian prisoners and thereby help ensure that all persons under the jurisdiction and effective control of Israel are afforded the full enjoyment of the rights enshrined in the International Covenant on Civil and Political Rights; and *wishes* to know if the Knesset and individual members are allowed to carry out impromptu prison visits and, if so, to receive information on the applicable legal framework;
8. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report to it in due course.

Philippines

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



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

PHL-08 – Leila de Lima

Alleged human rights violations

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

A. Summary of the case

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

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

Case PHL-08

Philippines: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: September 2016

Recent IPU decision: October 2023

IPU mission: May 2017

Recent Committee hearing(s): - - -

Recent follow-up:

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

On 7 November 2016, Ms. de Lima filed a petition for writ of *habeas data* against the then President Duterte before the Supreme Court, requesting that the Court, *inter alia*, order President Duterte and any of his representatives to cease: seeking details about her private life outside the realm of legitimate public concern or making statements maligning her as a woman and injuring her dignity as a human being; discriminating against her on the basis of gender; describing or publicizing her alleged sexual conduct; engaging in psychological violence against her; and otherwise violating her rights or engaging in acts that are contrary to law, good morals, good customs, public policy and/or public interest. On 18 October 2019, the Supreme Court dismissed the petition for writ of *habeas data* on the ground that the President was immune from legal action during his incumbency and tenure.

Ms. de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her campaign for a senate seat. The charges, in three different cases, were brought in the wake of an inquiry in 2016 by the House of Representatives into drug trafficking in New Bilibid Prison and Ms. de Lima's responsibility in such trafficking while she was Secretary of Justice. The House-led inquiry was launched one week after she had initiated her inquiry in the Senate into the extrajudicial killings.

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

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

After Mr. Ragos' recantation, and earlier recantations by Mr. Kerwin Espinosa and co-accused former bodyguard Mr. Ronnie Dayan, in the remaining case (Case No. 17-167) two more witnesses for the prosecution recanted their testimony on 16 October 2023. This was done in a letter handed over to Ms. de Lima, and subsequently shared with the court, in which they said that they were "bothered by their consciences" and that they did not want the accused to be the victim of a false trial. The letter also mentioned that five more witnesses would also recant. Moreover, the complainant underscores that at least two other witnesses, Mr. Joel Capones and Mr. Herbert Colanggo, claim to have engaged in illegal drug trafficking. Despite these admissions made under oath and in open court, to this day the prosecution has actively refused to charge them, whether as co-conspirators in the same case or in a separate case, hence showing – according to the complainant – that they stand to benefit from incriminating Ms. de Lima. Currently, the case is pending before the RTC of Muntinlupa City (Branch 206), with Judge Gener Gito presiding. Pending before the court is the motion for reconsideration of the court order under the previous judge, Mr. Romeo Buenaventura, who denied Ms. de Lima's

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application for bail on 7 June 2023. The motion for reconsideration was submitted after it was discovered that Judge Buenaventura's brother had direct and close links to the Chair of the aforementioned inquiry into Ms. de Lima by the House of Representatives in 2016. After Judge Buenaventura recused himself from the case, the case was assigned to Muntinlupa RTC Branch 206 under presiding Judge Gener Gito. On 13 November 2023, Judge Gito granted Ms. de Lima bail, after which she was released. After running through the testimonies of the primary witnesses, the court stated that the testimonies were unable to clearly establish that conspiracy existed among the accused, including Ms. de Lima, to commit illegal drug trading. The prosecution completed its case on 11 March 2024. On 21 March 2024, the defence counsel filed a demurrer to evidence, which, if granted, would amount to an acquittal. The defence counsel did so in the belief that there is not sufficient evidence for the case to proceed.

In his letter of 6 March 2024, the President of the Senate stated that the "Philippine Senate continues to uphold the rights and privileges due to its incumbent and former members".

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

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the President of the Senate for his communication and his spirit of cooperation;
2. *Is pleased* that Ms. de Lima was finally released on bail in November 2023; *is deeply concerned*, nevertheless, that the reasons that led the judge to grant bail underscore once more the serious deficiencies in the trial and in the evidence presented against Ms. de Lima; and *sincerely hopes* that the demurrer to evidence will succeed and that justice will finally be done through the dismissal of this last, remaining charge;
3. *Remains convinced* in this regard that the steps taken against Ms. de Lima came in response to her vocal opposition to the way in which the then President Duterte was waging war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; and *points out* in this regard, in addition to the numerous recantations by witnesses, the inexplicable length of the criminal proceedings; the repeated violation of the principle of the presumption of innocence; the timing of the criminal proceedings; the amendment of the charges; the reliance on the testimonies of convicted drug traffickers, who were either given favourable treatment in return, subjected to physical intimidation, including death, in prison, or had an axe to grind against Ms. de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice; and the pressure exerted on other individuals to testify against her;
4. *Welcomes* the readiness of the Senate to help protect the rights of Ms. de Lima; and *trusts* that it will continue to monitor her situation until its satisfactory conclusion;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

Philippines

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



France Castro Official portrait, 2019 © Wikipedia

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

Alleged human rights violations

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

A. Summary of the case

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

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

In this regard, the complainants state that Ms. Castro, who stands accused with other educators and advocates for the Lumad indigenous community in Davao del Norte in the Philippines, was briefly

Case PHL-COLL-02

Philippines: Parliament affiliated to the IPU

Victims: Current opposition members of parliament (two women)

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

Submission of complaint: December 2019

Recent IPU decision: October 2023

IPU mission(s): - - -

Recent Committee hearings(s): - - -

Recent follow-up:

- Communication from the authorities: Report from the Reference and Research Bureau of the House of Representatives (March 2024)
- Communication from the complainants: March 2024
- Communication to the authorities: Letter to the President of the Senate (March 2024)
- Communication to the complainants: October 2023

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arrested and detained on 28 and 29 November 2018 on a charge of “child abuse” in connection with the evacuation of 14 Lumad children attending the Salugpongan Ta' Tanu Igkanogon Community Learning Center in conflict-ridden Mindanao, where the armed forces, along with the paramilitary group Alamara, are fighting against the communist insurgency. It seems that the authorities are also claiming that the learning centre operated as a front for the communist insurgency. The prosecution is trying to prove the crime of “child abuse” by maintaining that this abuse was committed by accompanying the minors without the assistance and presence of the government law enforcement agency concerned or the written permission and consent of the minors' parents. The complainants state that Ms. Castro and the other accused rescued the 14 minors from harassment by the paramilitary group Alamara and the military. The children's parents reportedly denied that their children had been kidnapped by the accused and said that they had had to leave because the threats were no longer bearable. The complainants contend that the prosecution recently discharged one of the accused so that they could become a state witness, and that this individual – like the other witnesses for the prosecution – did not have any personal knowledge that would implicate Ms. Castro and the other accused in the commission of any crime. Despite the reported lack of evidence, on 25 September 2023, the court in the case denied the defence counsel's motion for leave to file a demurrer to evidence. Instead, it directed the defence counsel to present its witnesses starting on 4 October 2023. From the information provided on 20 March 2024 by the Reference and Research Bureau of the House of Representatives, it would appear that, until now, the witnesses for the prosecution have not been able to support the prosecution's thesis. Since October 2023, several witnesses for the defence have been heard. The defence counsel will present its next witness, Ms. Nolasco, on 11 April 2024, after which the court will set a trial date for the final defence witness, Ms. Castro. These last two hearings will be conducted via videoconference, as Ms. Nolasco and Ms. Castro continue to be targets of red-tagging, offline and online, which have given them cause for concern for their safety should they fly from Manila to Davao City and Tagum City.

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

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

As part of the alleged harassment, Ms. Elago was also targeted by an amended complaint, originally submitted on 24 July 2019, to which her name was added as a respondent. It concerns a complaint from a mother against the youth group “the Kabataan Party List” in which she accused the latter of

kidnapping and abusing her daughter. On 10 November 2020, the Supreme Court upheld its earlier decision to dismiss the petition submitted by the daughter's parents. In so doing, the Supreme Court concluded that the daughter was reportedly of legal age and that she had denied having been subjected to coercion and had voluntarily chosen to join the youth group. Shortly before, on 15 October 2020, prosecutors at the Department of Justice dismissed several of the charges in connection with this situation against Ms. Elago for lack of probable cause.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Reference and Research Bureau of the House of Representatives for the report provided;
2. *Remains deeply concerned* that the then President of the Philippines directly threatened on air the life of a member of parliament; *considers* that, over and above the grave consequences for Ms. Castro herself, this matter also has a serious impact on the functioning of the Filipino Parliament as a whole, as it may deter its members from speaking out on important matters and put their lives at significant risk; and *reiterates* its satisfaction that the leaders of political parties in parliament denounced the remarks made by the then President Duterte soon after he made them;
3. *Is perplexed* that, in light of the very public nature of the threats, the Prosecutor's Office decided not to proceed with Ms. Castro's criminal complaint against the then president; *sincerely hopes* that the Department of Justice will reconsider this decision and take the necessary follow-up action that the complaint warrants; and *wishes* to receive more information on this point;
4. *Remains concerned* about the continuous allegations of intimidation and red-tagging against Ms. Castro; *wishes* to know what steps are being taken to investigate these allegations and to provide her with the necessary protection; *trusts* that the House of Representatives is closely monitoring her situation; and *wishes* to receive confirmation thereof;
5. *Is concerned* that the trial proceedings against Ms. Castro and the rest of the accused have still not been completed and that the status of the remaining potential charges against Ms. Elago has yet to be determined, thereby creating a situation of prolonged legal uncertainty; *trusts* that Ms. Castro's trial will soon be concluded, all the more so in the apparent absence of any clear evidence to support the charge; *also trusts* that the remaining potential charges against Ms. Elago will soon be determined and that, in doing so, the conclusions reached by the Supreme Court on the petition pertaining to the same facts will be duly taken into account; and *wishes* to be kept informed in this regard;
6. *Remains concerned* that Ms. Elago's complaint regarding her alleged red-tagging is still pending with the Ombudsperson, with no sign of it being actively examined; *calls again on* the Ombudsperson to take the necessary action to examine the complaint along with any steps its findings may warrant; and *wishes* to be kept informed in this regard;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Department of Justice, the Ombudsperson, the complainants and any third party likely to be in a position to supply relevant information;
8. *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 213th session
(Geneva, 27 March 2024)*



© Facebook - Abdullahi Hashi Abib

SOM-14 – Abdullahi Hashi Abib

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of movement
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

Mr. Abdullahi Hashi Abib is an independent member of the Somali House of the People. According to the complainant, Mr. Abib has faced escalating threats against him and his family as well as intimidation due to his efforts to expose alleged human rights violations and instances of corruption within the government. He has allegedly also been confronted in parliament and called upon to stop his investigations. As a result, Mr. Abib has had no choice but to reside occasionally outside the country for his own safety. When in Somalia he has to take extreme precautions to avoid putting himself in danger, which limits his freedom of movement and ability to work with his constituents.

In addition, the complainant asserts that Mr. Abib has been repeatedly denied the opportunity to speak in parliament, prevented from introducing motions and has faced warnings of sanctions for making critical statements against the authorities. The complainant also notes that, during a parliamentary session where the accession to the Rome Statute of the International Criminal Court (ICC) was to be

Case SOM-14

Somalia: Parliament affiliated to the IPU

Victim: An independent member of parliament

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

Submission of complaint: February 2024

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: March 2024
- Communication from the complainant: March 2024
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2024)
- Communication to the complainants: March 2024

discussed, the Speaker did not allow any discussion on this item despite broad support among the parliamentarians present. According to the complainant, such a decision violates parliamentary rules, was taken as a result of pressure from outside parliament and was motivated by a desire to protect high-ranking officials for their involvement in numerous human rights violations, including the murder of Mr. Abib's colleague, Ms. Amina Abdi, in March 2022 (see case SOM-13), who was known for her calls for accountability in parliament.

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. According to the complainant, the new president actively called for an investigation to identify the mastermind of the assassination of Ms. Abdi, who hailed from the same party as Mr. Abib, but there has been no progress in the investigation since the elections. According to the complainant, Mr. Abib continues to call for accountability in Ms. Abdi's assassination, with the hope of ending the endemic impunity for political murders of prominent female figures in Somalia. He also aims to mobilize fellow parliamentarians by raising their awareness and building their capacity to fulfil their mandate through his involvement with the Horn and East Africa Parliamentary Institute.

Somalia is facing an increase in violent armed attacks as part of a decades-long civil war against insurgent groups. In past cases, the federal authorities have not been able to investigate the murder of parliamentarians due to structural challenges plaguing the country's judicial system. The IPU Committee on the Human Rights of Parliamentarians dealt with 12 cases of assassination, dating back to 2008, 2009 and 2014. All cases concerned acts of murder, none of which have been resolved.

During the 148th Assembly of the IPU in Geneva, the Committee on the Human Rights of Parliamentarians was able to meet with the delegation of Somalia. During the course of the meeting, the delegation shared a letter from the Speaker of the House of the People that addressed some of the concerns raised by the complainant. According to the parliamentary authorities, Mr. Abib was always allowed to voice his views, as stipulated by the parliamentary rules of procedure; they were not aware of any complaints raised by Mr. Abib in parliament and had not heard of any threats being made against him. The authorities encouraged Mr. Abib to make use of internal mechanisms to address his concerns and to include supporting evidence for any allegations raised against the authorities.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning Mr. Abib 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 of threats, acts of intimidation, violation of freedom of opinion and expression, violation of freedom of movement, and undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate, allegations which fall under the Committee's mandate;
2. *Thanks* the members of the Somali delegation for the information provided during a meeting with members of the IPU Committee on the Human Rights of Parliamentarians in March 2024;
3. *Is concerned* about the allegations that Mr. Abib received death threats as a result of his oversight activities; *acknowledges* that Somalia continues to face grave security challenges that affect all members of society; *remains convinced* that the parliamentary authorities have a responsibility to do their utmost to ensure that their colleagues are safe from any reprisals or threats as a consequence of their parliamentary work; and *requests* the authorities to do everything they can to ensure that Mr. Abib's life is protected and that he is able to carry out his work without threats, intimidation or obstruction;
4. *Is troubled* by the discrepancy between the account of the complainant and that of the authorities regarding allegations that Mr. Abib and others have repeatedly been denied the right to speak or raise motions in parliament; *wishes* to receive further clarification on this point, including a copy of the rules of procedure of the House of the People; and *hopes* to be able to

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rely on the assistance of the parliamentary authorities in obtaining video recordings of sessions of parliament where incidents were reported by the complainant;

5. *Requests* the Secretary General to bring this decision to the attention of the Speaker of the House of the People of Somalia, 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.

Türkiye

*Decision adopted by consensus by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)⁵*



A demonstrator holds up a picture of Figen Yüksekdağ during the trial of the co-leader of pro-Kurdish party People's Democratic Party (HDP) in front of the court in Ankara on 13 April 2017. ADEM ALTAN/AFP

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|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yıldırım (Ms.) | TUR-107 - Ferhat Encü |
| TUR-70 - Selma Irmak (Ms.) | TUR-108 - Hişyar Özsoy |
| TUR-71 - Faysal Sariyildiz | TUR-109 - Idris Baluken |
| TUR-73 - Kemal Aktas | TUR-110 - Imam Taşçier |
| TUR-75 - Bedia Özgökçe Ertan (Ms.) | TUR-111 - Kadri Yıldırım |
| TUR-76 - Besime Konca (Ms.) | TUR-112 - Lezgin Botan |
| TUR-77 - Burcu Çelik Özkan (Ms.) | TUR-113 - Mehmet Ali Aslan |
| TUR-78 - Çağlar Demirel (Ms.) | TUR-114 - Mehmet Emin Adiyaman |
| TUR-79 - Dilek Öcalan (Ms.) | TUR-115 - Nadir Yıldırım |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-116 - Nihat Akdoğan |
| TUR-81 - Feleknaş Uca (Ms.) | TUR-118 - Osman Baydemir |
| TUR-82 - Figen Yüksekdağ (Ms.) | TUR-119 - Selahattin Demirtaş |
| TUR-83 - Filiz Kerestecioğlu (Ms.) | TUR-120 - Sirri Süreyya Önder |
| TUR-84 - Hüda Kaya (Ms.) | TUR-121 - Ziya Pir |
| TUR-85 - Leyla Birlik (Ms.) | TUR-122 - Mithat Sancar |
| TUR-86 - Leyla Zana (Ms.) | TUR-123 - Mahmut Toğrul |
| TUR-87 - Meral Daniş Beştaş (Ms.) | TUR-124 - Aycan Irmez (Ms.) |
| TUR-88 - Mizgin Irgat (Ms.) | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-89 - Nursel Aydoğan (Ms.) | TUR-126 - Garo Paylan |
| TUR-90 - Pervin Buldan (Ms.) | TUR-128 - Aysel Tuğluk (Ms.) |
| TUR-91 - Saadet Becerikli (Ms.) | TUR-129 - Sebahat Tuncel (Ms.) |
| TUR-92 - Sibel Yiğitalp (Ms.) | TUR-130 - Leyla Güven (Ms.) |
| TUR-93 - Tuğba Hezer Öztürk (Ms.) | TUR-131 - Ayşe Sürücü (Ms.) |
| TUR-94 - Abdullah Zeydan | TUR-132 - Musa Farisogullari |
| TUR-95 - Adem Geveri | TUR-133 - Emine Ayna (Ms.) |
| TUR-96 - Ahmet Yıldırım | TUR-134 - Nazmi Gür |
| TUR-97 - Ali Atalan | TUR-135 - Ayla Akat Ata (Ms.) |
| TUR-98 - Alican Önlü | TUR-136 - Beyza Ustün (Ms.) |
| TUR-99 - Altan Tan | TUR-137 - Remziye Tosun (Ms.) |

⁵ The Turkish delegation expressed its reservations regarding the decision.

TUR-100 - Ayhan Bilgen
TUR-101 - Behçet Yıldırım
TUR-102 - Berdan Öztürk
TUR-105 - Erol Dora
TUR-106 - Ertuğrul Kürkcü

TUR-138 - Kemal Bulbul
TUR-140 - Gültan Kışanak (Ms.)
TUR-141 - Semra Güzel (Ms.)
TUR-142 - Saliha Aydemir (Ms.)
TUR-143 – Can Atalay

Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings and excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Arbitrary arrest and detention
- ✓ Ill-treatment
- ✓ Abusive revocation or suspension of the parliamentary mandate

A. Summary of the case

Over 600 criminal and terrorism charges have been brought against the members of parliament of the People's Democratic Party (HDP) since 20 May 2016, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. They are being tried on terrorism-related charges and charges of defamation of the President, Government or State of Türkiye. Some of them also face older charges in relation to the Kurdistan Communities Union (*Koma Civakên Kurdistan* – KCK) first-instance trial that has been ongoing since 2011, while others face more recent charges. In these cases, their parliamentary immunity was allegedly not lifted.

Since 4 November 2016, scores of parliamentarians have been detained and others have gone into exile. Since 2018, over 30 parliamentarians have been sentenced to prison terms. Ten current and former parliamentarians are in prison, namely the former HDP co-chairs, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ, as well as Ms. Leyla Güven, Ms. Semra Güzel, Ms. Hüda Kaya, Ms. Gültan Kışanak, Mr. Sebahat Tuncel, Mr. Nazmi Gür, Ms. Ayla Akat Ata and Mr. Can Atalay. Some of them were arrested in September 2020, although the accusations against them relate to the events in the distant past that unfolded soon after the siege of Kobane in Syria in 2014. At least 15 HDP members of parliament have lost their parliamentary mandates in recent years, largely as a result of their criminal convictions. Most recently, on 30 January 2024, Mr. Can Atalay, who had been elected in the May 2023 parliamentary elections from prison, lost his parliamentary mandate due to his earlier conviction and sentence to 18 years on charges of "aiding attempts to overthrow the Turkish Republic" for his alleged involvement in the Gezi protests in 2013. It should be noted that in October 2023, the Constitutional Court had ruled that he should be released given that his continued imprisonment violated his right to hold office, which ruling subsequently triggered a judicial crisis when the Court of Cassation said it would not recognize the ruling and filed a criminal complaint against the judges who made it. President Erdoğan has since reportedly stated publicly that he intends to curb the powers of the Constitutional Court.

According to the complainant, the charges against HDP members of parliament are groundless and violate their rights to freedom of opinion and expression, and freedom of assembly and association. The complainant claims that the evidence adduced to support the charges against the members of parliament relates to public statements, rallies and other peaceful political activities carried out in furtherance of their parliamentary duties and political party programme. Such activities include mediating between the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê* – PKK) and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political

Case TUR-COLL-02

Türkiye: Parliament affiliated to the IPU

Victims: 68 opposition members of parliament (34 men and 34 women)

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

Submission of complaint: June 2016

Recent IPU decision: February 2023

IPU mission: June 2019

Recent Committee hearings: Hearing with the Deputy Head of the Turkish delegation at the 148th IPU Assembly (Geneva, March 2024)

Recent follow-up:

- Communication from the authorities: Letter from the President of the Turkish IPU Group (January 2024)
- Communication from the complainant: March 2024
- Communication to the authorities: Letter to the President of the IPU Group (March 2024)
- Communication to the complainant: March 2024

autonomy and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Türkiye and at the border with Syria (including denouncing the alleged crimes committed by the Turkish security forces in that context). The complainant alleges that such statements, rallies and activities do not constitute any offence, and that they fall under the clear scope and protection of the fundamental rights of members of parliament.

An IPU trial observer concluded in 2018 that the prospects for Ms. Yüksekdağ and Mr. Demirtaş receiving fair trials were remote and that the political nature of both prosecutions was evident. It should be noted that, on 17 July 2022, the Constitutional Court ruled in one of the cases against Ms. Yüksekdağ that her rights to freedom of thought and expression, as well as to be elected, were violated when she was stripped of her parliamentary immunity in 2016.

A 2018 IPU review of 12 court decisions issued against HDP members reached similar conclusions. It concluded, *inter alia*, that the judiciary in Türkiye, from the first-instance courts to the Constitutional Court, completely disregarded the case law of the European Court of Human Rights and the main judgment of the Turkish Constitutional Court in relation to freedom of expression when evaluating whether an expression constituted incitement to violence or one of the other offences with which the members of parliament were charged.

On 22 December 2020, the Grand Chamber of the European Court of Human Rights delivered its judgment in the case of *Demirtaş v. Türkiye* (No. 2) (Application No. 14305/17), and held that there had been violations of his rights to freedom of expression, to freedom and security, to a speedy decision on the lawfulness of detention and to free elections. The Court also found that Mr. Demirtaş' detention, especially during two crucial campaigns relating to the referendum of 16 April 2017 and the presidential elections of 24 June 2018, had pursued the ulterior motive of stifling pluralism and limiting freedom of political debate, which was at the very core of the concept of a democratic society. The Court held that the respondent state was to take all necessary measures to secure his immediate release. On 7 January 2021, the Ankara 22nd Assizes Court accepted a 3,500-page indictment against Mr. Demirtaş and 107 other defendants, issued by the Ankara public prosecutor on 30 December 2020, regarding the same protests that took place in October 2014, this time charging Mr. Demirtaş with 30 new offences. Since then, Mr. Demirtaş has been sentenced to prison terms in other criminal cases, which the complainant maintains violate his basic human rights. The Turkish authorities have stated that the ruling of the European Court of Human Rights could not be implemented, given that Mr. Demirtaş' ongoing detention was related to new evidence that is substantially different from that examined by the Court. Similarly, on 8 November 2022, the European Court of Human Rights ruled that Türkiye had violated Articles 10 (freedom of expression) and 5 (subparagraphs 1, 3 and 4 concerning the right to freedom and security) of the European Convention regarding the pretrial detention of 13 HDP parliamentarians elected to parliament in November 2015, namely Ms. Figen Yüksekdağ, Mr. İdris Baluken, Ms. Besime Konca, Mr. Abdullah Zeydan, Mr. Nihat Akdoğan, Ms. Selma Irmak, Mr. Ferhat Encu, Ms. Gülser Yildirim, Mr. Nursel Aydoğan, Ms. Çağlar Demirel, Mr. Ayhan Bilgen, Ms. Burcu Çelik Özkan and Ms. Leyla Birlik.

On 1 February 2022, the European Court of Human Rights ruled that the lifting of the parliamentary immunity of 40 HDP lawmakers, who had brought their case to the European Court following the constitutional amendment in May 2016, had violated their right to freedom of expression. In so doing, the Court responded to their assertion that the lifting of their immunity came in response to their political opinions and drew for its conclusions on this point on its rulings in the cases of *Demirtaş v. Türkiye* and *Demir v. Türkiye*.

On 19 October 2021, in the landmark decision *Vedat Şorli v. Turkey*, the European Court of Human Rights found that section 299 of the Turkish Criminal Code, which criminalizes insulting the President, was incompatible with the right to freedom of expression, and urged the Government to align legislation with Article 10 of the European Convention on Human Rights.

The Turkish authorities have provided extensive information on the legal status of the criminal proceedings against the HDP parliamentarians, without, however, providing information on the precise facts to support the charges or convictions, despite numerous requests over the years from the IPU.

The Turkish authorities have repeatedly justified the legality of the measures taken against the HDP parliamentarians, and invoked the independence of the judiciary, the need to respond to security and terrorism threats and legislation adopted under the state of emergency. The authorities have provided

detailed information on parliament's May 2016 "provisional constitutional amendment" on parliamentary immunity, which has been used to prosecute parliamentarians from all parties. They have asserted that there is no "HDP witch-hunt" in Türkiye; that women parliamentarians are not being specifically targeted; that there is no Kurdish issue in Türkiye and no current conflict in south-eastern Türkiye; that Türkiye is facing a terrorism issue on many levels involving the PKK and its "extensions"; that the HDP has never publicly denounced the violent activities of the PKK; that HDP members, including members of parliament, have made many statements in support of the PKK and their "extensions"; that HDP members have attended funerals of PKK suicide bombers and called for people to take to the streets, which has resulted in violent incidents with civilian casualties; that this does not fall within the acceptable limits of freedom of expression; that the Constitutional Court has reached such conclusions in several cases and, in other cases, domestic remedies have not yet been exhausted; and that the independence of the judiciary and the rule of law in Türkiye must be respected.

On 17 March 2021, the chief prosecutor of the Turkish Court of Cassation referred a request for the dissolution of the HDP to the Constitutional Court, accusing the HDP of terrorist activities. It appears that the prosecution is drawing heavily on the ongoing proceedings against several HDP politicians in the 2014 Kobane case referred to earlier. At the hearing held with the Committee on the Human Rights of Parliamentarians at the 148th IPU Assembly (March 2024), the Deputy Head of the Turkish delegation stated that the legal proceedings had been completed, that the files had been handed over to the court rapporteurs, who would now have to report back to the court as a whole, after which a date would be set for the ruling. She pointed out that Turkish law had been amended, with the current criteria allowing for the dissolution of political parties to be much more stringent. She also said that the court could decide, rather than choosing between dissolving the HDP or not, that the penalty would be to deprive it of state funding.

The Deputy Head of the Turkish delegation also pointed out that further legal reforms had taken place to promote respect for the right to freedom of expression, which had been acknowledged by the Council of Europe's Committee of Ministers on 14 March 2024. In this regard, it should be noted that the Committee had welcomed, in connection with the *Işıkırık* group of cases, the recent decision of the Constitutional Court, which had annulled section 220(6) of the Criminal Code and invited the authorities to provide the Committee with full details and analysis of the legislative amendment that entered into force on 12 March 2024 and to keep the Committee updated on the application of this provision by the domestic courts. The Committee also welcomed the rulings of the Constitutional Court and the Court of Cassation provided by the authorities, demonstrating a Convention-compliant application of section 220(7) of the Criminal Code. At the same time, in the absence of any information to indicate a significant drop in the number of investigations, prosecutions, pretrial detention orders and convictions imposed in relation to the exercise of freedom of expression, the Committee repeated its call on the authorities to consider further legislative amendments to the Criminal Code and the anti-terrorism legislation, particularly sections 125(3) and 301 of the Criminal Code, to clarify that the exercise of the right of freedom of expression does not constitute an offence, and to abrogate section 299 of the Criminal Code.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Can Atalay, which is the subject of cases TUR-69 to TUR-142, is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants under section I.1(c) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns a member of parliament at the time of the initial allegations; and (iii) concerns allegations of failure to respect parliamentary immunity, violation of freedom of opinion and expression, and arbitrary arrest and detention, which are allegations that fall under the Committee's mandate; and *decides* to merge Mr. Atalay's case with the present collective case;
2. *Thanks* the President of the Turkish IPU Group for her latest communication and the Deputy Head of the Turkish delegation for the information provided at the hearing held with the Committee on the Human Rights of Parliamentarians during the 148th IPU Assembly (March 2024);

3. *Remains alarmed* at the prospect of the dissolution of the HDP party, also bearing in mind that its predecessors were dissolved by court order; *considers* that such a step would show once again that the authorities continue to view, wrongly, the PKK and the HDP as one and the same entity; *recalls* in this regard that, while recognizing that the two organizations rely largely on the same support base and pursue similar objectives, the HDP is a legal political party that does not in any way advocate violence to achieve its goals; *trusts* that the Turkish Constitutional Court will clearly take this distinction into account in the ruling it adopts; and *also trusts* that the amended legal framework in place in Türkiye complies with, and will be interpreted in this case in order to comply with, the European Court of Human Rights' jurisprudence regarding the dissolution of or ban on a party as an extreme measure only justified as a last resort and in very exceptional circumstances;
4. *Remains concerned* that in recent years the number and scope of the rulings from the European Court of Human Rights underscore that the legal steps to which the HDP parliamentarians have been subjected did not follow due process and came in direct response to the exercise of their freedom of expression and, as determined in the case of Mr. Demirtaş, were aimed at stifling the opposition;
5. *Remains deeply concerned* in this regard that 10 current and former parliamentarians continue to languish in prison; *considers*, once more, that the information on file, as provided by the Turkish Parliament, does nothing to dispel the doubts that the HDP parliamentarians have been targeted in connection with the legitimate exercise of their political rights; *calls on* the Turkish authorities to review their situation and, where possible, to release them and terminate the criminal proceedings; and *requests* the Turkish authorities, once again, to provide information on the facts in support of the legal action taken against those 10 and other individuals concerned in this case;
6. *Reaffirms its long-standing view* that, in their legitimate fight against terrorism, the Turkish authorities need to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association; *notes with great interest*, however, that the Constitutional Court has adopted several rulings in support of some of the basic human rights at the heart of the cases at hand and that some legislative reforms are said to have taken place to strengthen freedom of expression; *wishes* to receive more information on these matters, also in light of the reported calls to curb the powers of the Constitutional Court made at the highest official level in Türkiye that may jeopardize its work, and on any further intended plans to strengthen freedom of expression; and *wishes also* to receive in this regard more information on the preparation of the new human rights action plan and the new judicial reform strategy paper;
7. *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;
8. *Requests* the Committee to continue examining the case and to report back to it in due course.

Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



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

VEN-18 – María Corina Machado (Ms.)

Alleged human rights violations

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

A. Summary of the case

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

Case VEN-18

Venezuela: Parliament affiliated to the IPU

Victims: One female opposition member of parliament

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

Submission of complaint: February 2013

Recent IPU decision: February 2018

IPU Mission: August 2021

Recent Committee hearing:

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

Recent follow-up:

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

Presidential elections are scheduled to take place in Venezuela on 28 July 2024. Ahead of this, several opposition factions organized an internal presidential primary contest to elect a single opposition candidate. On 23 October 2023, Ms. Machado emerged as the opposition's chosen candidate. On 26 January 2024, Venezuela's Supreme Court upheld a 15-year ban on Ms. Machado from holding public office. The ruling upholds the constitutionality of the Comptroller General of the Republic's decision banning Ms. Machado from holding public office for 15 years. According to information received by the IPU, several arrest warrants have been issued against members of Ms. Machado's campaign team, some of whom have been arrested, including Ms. Dignora Hernández, a former member of parliament elected in 2015, who was arrested on 20 March 2024.

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Venezuelan authorities for the information provided in writing and for meeting with the Committee on the Human Rights of Parliamentarians during its 173rd session to discuss the cases and concerns at hand; and *notes with satisfaction* the willingness expressed by the delegation to collaborate with the IPU in seeking satisfactory solutions to the cases before the Committee and to cooperate with it on issues of common interest;
2. *Is concerned* that Ms. Machado, who has her sights set on the State's highest office, is being prevented from standing as a candidate in the forthcoming presidential elections as a result of a unilateral act by the Comptroller General, a non-judicial authority, and a procedure that did not allow her to exercise her right of defence; *recalls* that Ms. Machado had already been prevented from standing as a candidate in the legislative elections of December 2015; and considers that the position taken by Venezuela's Supreme Court on Ms. Machado's ban from holding public office appears to be a continuation of ongoing actions by state institutions to restrict Ms. Machado's rights, which began when she was a prominent opposition member of parliament;
3. *Is also concerned* that several arrest warrants have been issued against members of Ms. Machado's campaign team, some of whom have been arrested; and *considers* in this regard that continued reprisals against members of her campaign team are preventing Ms. Machado from participating in the electoral process on an equal footing with other candidates and may discourage opposition participation in the presidential elections;
4. *Notes with concern* that the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela established by the United Nations Human Rights Council reported *on 20 March 2024* that recent developments in Venezuela highlight serious difficulties in ensuring that the upcoming presidential elections are conducted in accordance with the right to participate in public affairs, as affirmed in the International Covenant on Civil and Political Rights;
5. *Recalls*, once more, as stated in the IPU's [Universal Declaration on Democracy](#), that the "key element in the exercise of democracy is the holding of free and fair elections ... enabling the people's will to be expressed ... on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness and transparency"; and *expresses its firm hope*, therefore, that the national authorities will urgently take measures

to ensure that opposition candidates and their supporters will be allowed to exercise their basic human right to take part in the conduct of public affairs on a par with the ruling party and its supporters;

6. *Reaffirms* its stance that the issues in this case are part of the broader complex situation in Venezuela, which can only be resolved through political dialogue and by the Venezuelans themselves; *calls on, once again*, all relevant political actors to act in good faith and to commit fully to inclusive political dialogue that will bring about a new social pact through participatory and non-violent means, without foreign interference and in compliance with the State's international human rights commitments, as well as create the necessary conditions to conduct elections accepted by all parties; *reaffirms* that the IPU stands ready to assist with these efforts; and *invites the relevant authorities to provide* further official information on how this assistance can best be provided;
7. *Renews its call on* all IPU Member Parliaments, IPU Permanent Observers, relevant human rights organizations and the international community in general to take concrete actions in support of any effort to strengthen democracy in Venezuela in a manner consistent with human rights values and within the boundaries of the principle of non-interference in domestic affairs;
8. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining the case and to report back to it in due course.

Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024)*



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

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|-----------------------------------|--|
| VEN-10 – Biagio Pileri | 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 Guaípe (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 |
| 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 – Deyalitzza 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 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 case

The case concerns allegations of human rights violations affecting 135 parliamentarians⁶ from the coalition of the *Mesa de la Unidad Democrática* (Democratic Unity Roundtable – MUD), against the backdrop of continuous efforts by Venezuela’s executive and judicial authorities to undermine the functioning of the National Assembly elected in 2015. At the time, the MUD coalition was opposed to President Nicolás Maduro’s Government and obtained a majority of seats in the National Assembly in the parliamentary elections of 6 December 2015. New parliamentary elections were held on 6 December 2020.

According to the complainant, almost all parliamentarians listed in the present case have been attacked or otherwise intimidated with impunity by law enforcement officers and/or pro-government officials and supporters 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 Nicolás Maduro pardoned 110 members of the political opposition who had been accused of committing criminal acts. The decision meant the closure of ongoing criminal proceedings against 26 parliamentarians listed in the present case and the release of four of them.

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 (VEN-66), 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 Nicolás Maduro in Caracas in 2018. He spent two years in prison and three under house arrest. He was finally released on 19 October 2023.

According to the complainant, in recent months, Venezuelan judges have issued arrest warrants and extradition requests against several former members of parliament from the 2015 National Assembly, including Mr. Julio Borges (VEN-16) and Mr. Juan Guaidó (VEN-53), both former presidents of the 2015 National Assembly; Ms. Dinorah Figuera (VEN-49); Ms. Marianela Fernández (VEN-94) and Ms. Auristela Vásquez (VEN-155). All of them live in exile. The complainant also reported that on 25 January 2023 the properties of Ms. Figuera and Ms. Vásquez had been seized by the judicial

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: March 2023

IPU mission: August 2021

Recent Committee hearings:

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

Recent follow-up:

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

⁶ 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.

authorities. In September and December 2023, the CHRP received detailed information about new death threats and intimidation against former Vice-president of the CHRP, Ms. Delsa Solórzano (VEN-40). In March 2024, the complainant reported that an arrest warrant had been issued against Mr. Omar González (VEN-51), who is a member of the campaign team of the opposition presidential candidate, Ms. María Corina Machado (VEN-18), for allegedly being linked to a destabilization plan to create violence in the country aimed at ensuring Ms. Machado's participation in the upcoming presidential elections.

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Venezuelan authorities for the information provided in writing and for meeting with the Committee on the Human Rights of Parliamentarians during its 173rd session to discuss the cases and concerns at hand; and *notes with satisfaction* the willingness expressed by the delegation to collaborate with the IPU in seeking satisfactory solutions to the cases before the Committee and to cooperate with it on issues of common interest;
2. *Welcomes* the release of Mr. Juan Requesens, who was the last former parliamentarian in the present collective case to be deprived of his liberty;
3. *Remains deeply concerned* by reports that criminal proceedings are ongoing and several arrest warrants and/or extradition requests have been issued against a number of former opposition parliamentarians, including Mr. Julio Borges, Mr. Juan Guaidó, Ms. Dinorah Figuera, Ms. Marianela Fernández, Ms. Auristela Vásquez and Mr. Omar González; *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 their rights are fully respected;
4. *Is deeply concerned* that Ms. Delsa Solórzano has allegedly received new death threats and is facing intimidation; *urges* in this regard the competent authorities to ensure that she receives adequate protection and that the threats are effectively investigated and those responsible held to account; and *wishes* to receive information on this point;
5. *Reaffirms* its long-standing position that the continued harassment of opposition parliamentarians elected in 2015, despite the expiry of their mandate, is a direct consequence of the prominent role they played as outspoken opponents of President Nicolás 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;
6. *Is deeply concerned* that, on 15 February 2024, the Venezuelan Government decided to suspend the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the country; *recalls* that the OHCHR's presence in Caracas has played an

important role in monitoring and documenting the human rights situation in the country and in providing support and assistance to victims and survivors, including the former members of parliament listed in the present case; and *sincerely hopes* that the Venezuelan Government will reverse this decision and re-engage with the OHCHR as soon as possible;

7. *Reaffirms* its stance that the issues in this case are part of the broader complex situation in Venezuela, which can only be resolved through political dialogue and by the Venezuelans themselves; *calls on*, once again, all relevant political actors to act in good faith and to commit fully to inclusive political dialogue that will bring about a new social pact through participatory and non-violent means, without foreign interference and in compliance with the State's international human rights commitments, as well as create the necessary conditions to conduct presidential elections, the results of which can be accepted by all parties; *reaffirms* that the IPU stands ready to assist with these efforts; and *invites* the relevant authorities to *provide* further official information on how this assistance can best be provided;
8. *Recalls*, once more, as stated in the IPU's [Universal Declaration on Democracy](#), that the "key element in the exercise of democracy is the holding of free and fair elections ... enabling the people's will to be expressed ... on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness and transparency"; and *expresses its firm hope*, therefore, that the national authorities will urgently take measures to ensure that opposition candidates and their supporters will be allowed to exercise their basic human right to take part in the conduct of public affairs on a par with the ruling party and its supporters;
9. *Renews its call on* all IPU Member Parliaments, IPU Permanent Observers, relevant human rights organizations and the international community in general to take concrete actions in support of any effort to strengthen democracy in Venezuela in a manner consistent with human rights values and within the boundaries of the principle of non-interference in domestic affairs;
10. *Notes* that the Committee decided to close the individual case relating to the situation of Mr. Oscar Ronderos (VEN-78) in accordance with section IX.25 (c) of Annex I to its Procedure for the examination and treatment of complaints, considering that Mr. Ronderos stated that further action by the Committee would no longer be useful in his case;
11. *Requests* the Secretary General to convey this decision to the competent Venezuelan authorities, the complainant and any third party likely to be in a position to supply relevant information;
12. *Requests* the Committee to continue examining the case and to report back to it in due course.

Zimbabwe

*Decision adopted by consensus by the IPU Governing Council at its 213th session
(Geneva, 27 March 2024) ⁷*



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ZWE-47 – Pashor Raphael Sibanda
ZWE-48 – Ereck Gono
ZWE-49 – Nicola Jane Watson (Ms.)
ZWE-50 – Desmond Makaza
ZWE-51 – Obert Manduna
ZWE-52 – Sitabile Mlilo (Ms.)
ZWE-53 – Jasmine Toffa (Ms.)
ZWE-54 – Janeth Dube (Ms.)
ZWE-55 – Evidence Zana (Ms.)
ZWE-56 – Morgan Ncube
ZWE-57 – Velisiwa Nkomo (Ms.)
ZWE-58 – Prince Dubeko Sibanda
ZWE-59 – Bright Moyo Vanya
ZWE-60 – Febion Munyaradzi Kufahatizwi
ZWE-61 – Helen Zivira (Ms.)
ZWE-62 – Gideon Shoko
ZWE-63 – Siphwe Ncube (Ms.)
ZWE-64 – Felix Magalela
ZWE-65 – Tendai Sibanda (Ms.)
ZWE-66 – Joel Gabuza Gabbuza
ZWE-67 – Anastasia Moyo (Ms.)

ZWE-68 – Mativenga Godfrey Madzikana
ZWE-69 – David Chimhini
ZWE-71 – Admore Chivero
ZWE-72 – Stephen Chatiza
ZWE-73 – Gift Ostallos Siziba
ZWE-74 – Tapfumaneyi Willard Madzimbamuto
ZWE-75 – Oliver Mutasa
ZWE-76 – Amos Chibaya
ZWE-77 – Emma Muzondiwa (Ms.)
ZWE-78 – Machirairwa Mgidho (Ms.)
ZWE-79 – Constance Chihota (Ms.)
ZWE-80 – Monica Mukwada (Ms.)
ZWE-81 – Sekai Mungani (Ms.)
ZWE-82 – Linnet Mazingaidzo (Ms.)
ZWE-83 – Dephine Gutsa (Ms.)
ZWE-84 – Webster Maondera
ZWE-85 – Jameson Timba
ZWE-86 – Editor Matamisa (Ms.)
ZWE-87 – Vongai Tome (Ms.)
ZWE-88 – Ralph T. Magunje

⁷ The delegation of Zimbabwe expressed its reservations regarding the decision.

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate
- ✓ Other violations: right to take part in the conduct of public affairs

A. Summary of the case

General elections were held in Zimbabwe on 23 August 2023, which led to the inauguration of the 10th parliamentary term on 3 October 2023. According to the complainant, the Citizen's Coalition for Change (CCC), the opposition party then led by Mr. Nelson Chamisa, the main challenger to the incumbent President Mnangagwa of the ruling Zimbabwe African National Union (ZANU-PF) party, acquired a sizeable number of seats in both chambers of parliament, thus ending the two-thirds majority that the ZANU-PF party had enjoyed in the past. According to the complainant, in a letter dated 11 September 2023, Mr. Nelson Chamisa wrote to the speakers of both houses of parliament that, as President of the CCC, his office was to be solely responsible for any correspondence between the authorities and the CCC.

At a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 147th IPU Assembly, the Speaker of the National Assembly stated that Article 129(1)(k) of the Constitution of Zimbabwe stipulated that the seat of a member of the National Assembly becomes vacant "if the Member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker ... has declared that the Member has ceased to belong to it".

The complainant contends that Speaker Mudenda recalled 14 members of the National Assembly on the basis of a letter that was allegedly received from a Mr. Sengozo Tshabangu on 4 October 2023, in which Mr. Tshabangu claimed to be the "interim Secretary General of the CCC" and requested the speakers of both houses of parliament to recall 14 members of the lower house and nine senators on the grounds that they were no longer members of the CCC. According to the complainant, Mr. Tshabangu is an imposter with no position in the CCC and without any authority to request this recall. Moreover, none of the individuals concerned in parliament stated that they had left the CCC. In the hearing with the IPU Committee, the Speaker of the National Assembly stated that Mr. Tshabangu's letter had been received before Mr. Chamisa's letter and affirmed that, had it been the other way around, his decision would have been quite different.

According to the complainant, the Speaker of the National Assembly denied the CCC parliamentarians the right to be heard before proceeding with the revocation of their parliamentary mandate on 10 October 2023. According to information received from the Speaker of the National Assembly, most recently through his letter of 26 February 2024, under Article 129(1)(k) of the Constitution, and bearing in mind a legal precedent specifying that the Speaker should not adjudicate internal party disputes, the Speakers of each chamber had no choice but to proceed with the recall and to refer the individuals concerned to the courts if they did not agree with the recall decision. The Speaker of the National Assembly has also referred in his observations to existing case law that confirms this position.

The complainant claims that the Speaker acted unconstitutionally by ignoring the written and oral submission of known members of the CCC by refusing any discussion on this issue and by accepting the letter from Mr. Tshabangu without verifying that it was a legitimate communication from the CCC. In addition, the complainant alleges that the Speaker ordered the intervention of a riot police unit, which evicted the CCC parliamentarians from the National Assembly after they refused to leave the House,

Case ZWE-COLL-02

Zimbabwe: Parliament affiliated to the IPU

Victims: 41 opposition members of parliament (22 men and 19 women)

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

Submission of complaint: October 2023

Recent IPU decision: October 2023

IPU mission(s): - - -

Recent Committee hearing: Hearing with the Speaker of the National Assembly at the 147th IPU Assembly (October 2023)

Recent follow-up:

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

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protesting against the recall of their colleagues. According to the complainant, several parliamentarians sustained injuries as a result of police brutality in the House. In addition, the complainant submits that the Speaker suspended all CCC National Assembly members from the House for six sittings and stopped their salaries for two months.

Since then, the complainant states that 18 additional CCC parliamentarians were recalled on 14 November 2023 (five senators and 13 members of the lower house), and that all recalled CCC legislators have been barred from taking part in by-elections held since October 2023. In addition, Mr. Febion Kufahatizwi, whose mandate was affected by the recall of 10 October 2023, was reportedly subjected to threats and intimidation against himself and his staff during the by-elections, which led to the abduction and murder of his aide, Mr. Tapfumaneyi Masaya. The complainant adds that this followed the abduction and torture of Mr. Takudzwa Ngadziore on 1 November 2023 and two other CCC members in the months that followed the August 2023 elections.

According to the complainant, these events should be seen as part of a pattern of repression, erosion of the independence of the judiciary and a shrinking civic space, which intensified after the 2023 elections, and against the background of pre-existing violations of the rights of opposition parliamentarians. The complainant shared several incidents where opposition parliamentarians had been recalled from other opposition parties in the past but stressed that never before had the recall procedure been initiated by a person who was reportedly external to the political party and its leadership. Reportedly, Mr. Tshabangu made statements to the effect that only CCC candidates vetted by himself would be allowed to take part in future by-elections, which led to the intervention of the Zimbabwe Electoral Commission (ZEC) to ban recalled members of parliament from taking part in elections. In addition, all attempts to rectify the recalls by challenging them in court were dismissed.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the current case also includes a new complaint regarding the situation of 18 individuals and 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 18 additional members of parliament who had been elected before the alleged violations took place; and (iii) concerns allegations of undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate, which are allegations that fall within the Committee's mandate; and *decides* to merge the examination of their cases with the present case;
2. *Thanks* the Speaker of the National Assembly of Zimbabwe for his recent letter and for the detailed information provided therein;
3. *Is concerned* by the escalating number of cases before the Committee on the Human Rights of Parliamentarians in Zimbabwe;
4. *Regrets* that the parliamentary authorities did not see fit to implement the decision of the Governing Council of 27 October 2023 regarding the modification of the recall procedure after the revocation of the mandate of the first 23 opposition parliamentarians; *declares*, once again, that the procedure allowing political parties in Zimbabwe to recall their members in parliament runs counter to the basic principle of the free representational mandate and to the right to freedom of expression, both of which the IPU has consistently defended; *reaffirms* that the Constitution should also secure the rights of parliamentarians, and that if the interpretation of some norms infringes on the rights of duly elected members of parliament and deprives them of the mandate given to them by the people, that serious consideration should be given to revising those norms; *renews its sincere hope* that the Zimbabwean authorities, in particular parliament, will seriously examine the possibility of modifying the recall procedure so as to ensure that members of parliament can carry out their work freely without undue pressure from their political parties;

5. *Appreciates* the argument put forward by the Speaker of the National Assembly that he acted in line with Article 129(1)(k) of the Constitution of the Republic of Zimbabwe; *fails to see*, however, any reasonable grounds for accepting an official communication from an unknown individual without being satisfied that the said communication is legitimate and without seeking the point of view of the individuals concerned or the President of their party; *is concerned* by the assertion that the official communication from the leader of the party to which the 18 parliamentarians belonged was not taken into account because it was reportedly received after the recall, even though it was dated three weeks before that decision was taken; *is puzzled* by the swiftness with which the decision to revoke the mandate of the newly elected parliamentarians was taken and the fact that no debate on the issue was allowed; and *wishes* to receive additional clarification from the parliamentary authorities of the National Assembly and the Senate on the points above;
6. *Is dismayed* that 18 additional opposition parliamentarians lost their seats following the decision of the Speaker of the National Assembly and the President of the Senate to revoke their mandate on the basis of yet another deeply contested letter from Mr. Tshabangu, an individual who is allegedly unrelated to the party to which these legislators belong; *is perplexed* by the fact that this letter was accepted and acted upon despite the fact that the President of the party concerned, Mr. Nelson Chamisa, had written months before to the said Speakers, clearly stating that all correspondence with and from the CCC party had to go solely through him, and despite his later comments that Mr. Tshabangu was an imposter and that the parliamentarians concerned were *bona fide* members of the party and did not consent to the recall;
7. *Is shocked* to learn that the members of parliament who lost their seats as a result of the recalls were denied the right to take part in by-elections in their constituencies by decision of the Zimbabwe Electoral Commission; *takes note* of the information that a ban has been issued by the High Court of Zimbabwe blocking any new recalls pending a final decision on the matter by the courts; and *strongly believes* that parliament should review the circumstances that paved the way to the emergence of this case and do everything necessary to ensure that such circumstances do not arise again;
8. *Is convinced* that this case and the ongoing cases from Zimbabwe before the Committee require the organization of a mission by the IPU Committee to Zimbabwe as soon as practicable; *thanks*, once again, the Speaker of the National Assembly for his renewed commitment, as stated in his most recent letter, to making arrangements with the executive authorities to facilitate the organization of such a mission; and *wishes* to receive such information in time to conduct such a mission ahead of the 149th Assembly of the IPU, scheduled to take place in October 2024; and *looks forward* to receiving information on the specifics of the mission as soon as possible;
9. *Requests* the Secretary General to convey this decision to the parliamentary authorities and other relevant national authorities, the complainant and any interested third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.

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