

SENEGAL

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



Inter-Parliamentary Union
For democracy. For everyone.

Senegal

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Ousmane Sonko speaks during a political rally in Thies on 20 February 2019. MICHELE CATTANI / AFP

SEN-08 – Ousmane Sonko

Alleged human rights violations

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

A. Summary of the case

Mr. Ousmane Sonko is president of *PASTEF-Les Patriotes*, a Senegalese opposition party dissolved on 31 July 2023. He was a member of the National Assembly in the previous legislature (2017–2022) and has his sights set on high office. Mr. Sonko came third in the 2019 presidential elections and has officially announced that he will run in the 2024 presidential elections. According to the complainant, the present case is part of ongoing efforts by the ruling party to remove any possibility of change in political leadership.

On 8 February 2021, Mr. Sonko was summoned by the *Section de recherche de la Gendarmerie nationale* (National Gendarmerie's Research Section) after a complaint of rape was filed against him, an offence he categorically denied. On the same day, the Public Prosecutor requested the opening of a judicial investigation and

Case SEN-08

Senegal: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: March 2021

Recent IPU decision: October 2023

Recent IPU mission(s): - - -

Recent Committee hearings:

- Hearing with the Senegalese delegation at the 147th IPU Assembly in Luanda (October 2023)
- Online hearing with Mr. Guy Marius Sagna, member of the Senegalese National Assembly, member of PASTEF-Les Patriotes, at the 147th IPU Assembly in Luanda (October 2023)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the National Assembly (January 2024)
- Communication from the complainant: January 2024
- Communication to the authorities: Letter to the Speaker of the National Assembly (November 2023)
- Communication to the complainant: January 2024

the investigating judge requested the lifting of the member of parliament's parliamentary immunity. The National Assembly plenary voted in favour of lifting Mr. Sonko's immunity on 26 February 2021.

On 3 March 2021, Mr. Sonko was summoned to court and went accompanied by a crowd of activists. According to the complainant, the procession was stopped halfway by security forces, who arrested Mr. Sonko. The complainant alleges several irregularities surrounding Mr. Sonko's detention, the criminal proceedings and the procedure for lifting parliamentary immunity. On the day he was summoned by the judge, Mr. Sonko allegedly mobilized members and supporters of his party and refused to follow the route designated by the law enforcement authorities, thus creating serious public disorder problems. All this took place against a background of a ban on gatherings and demonstrations due to the health emergency declared because of COVID-19. These acts of public disorder were reportedly the reason for his arrest and detention for insurgency and practices and acts likely to disrupt public security, which are offences provided for and punished in the Senegalese Criminal Code.

Mr. Sonko was released under judicial supervision on 8 March 2021. The Public Prosecutor dropped the initial charges brought against him for public disorder. On 3 November 2022, Mr. Sonko was heard by the senior judge in charge of the case concerning the rape allegations. According to the complainant, Mr. Sonko refused to take a DNA test requested by the Court, considering the case brought against him to be "a plot". On 1 June 2023, when handing down its decision on this case, the Criminal Section reclassified the charge of rape to that of corruption of a minor, and sentenced Mr. Sonko *in absentia* to two years' imprisonment and a fine of 20 million CFA francs in damages.

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

On 16 February 2023, Mr. Sonko was forcibly taken out of his car by police officers and driven to his home in an armoured van after appearing before the court. He had just responded to a summons to appear following a complaint by the Minister of Tourism, Mr. Mame Mbaye Niang, who had accused Mr. Sonko of libel in relation to the criticism of the Minister's handling of public funds. In this case, Mr. Sonko was sentenced on 8 May 2023 at second instance to a suspended six-month prison sentence and a fine of 200 million CFA francs. Mr. Sonko has appealed to the Supreme Court against the decision handed down on appeal. In its ruling of 4 January 2024, Senegal's Supreme Court upheld the decision of the Dakar Court of Appeal.

On 16 March 2023, Mr. Sonko's car was reportedly intercepted once again. According to the complainant, the police sprayed the car with tear gas before breaking the window and forcibly removing him through it, then driving him home in one of their armoured vans, without a warrant. Mr. Sonko was reportedly wounded by shards of the broken window glass. He was doused with an unknown liquid at the same time.

According to information supplied by the complainant, the police stationed themselves outside Mr. Sonko's home between 29 May and 24 July 2023, preventing anyone from entering and also hindering Mr. Sonko's free movement. Subsequently, Mr. Sonko was questioned at his home on 28 July 2023, charged with a number of offences, including "promoting insurrection", "conspiracy against the authority of the State" and "breaches of State security", and remanded in custody. To date, Mr. Sonko remains in detention.

Mr. Sonko received an official notification dated 3 August 2023 that he had been struck off the electoral list (*radiation*). At the hearing held during the 147th IPU Assembly, Mr. Guy Marius Sagna, a member of the Senegalese National Assembly and of the dissolved party *PASTEF-Les Patriotes*, said that on 12 October 2023, the Ziguinchor Court had overturned the decision to strike Mr. Sonko off the electoral list and had ordered his reinstatement on the list. He also stated that Mr. Sonko had resumed his hunger strike, that he had been hospitalized and that his state of health was very worrying.

At the hearing held during the 146th IPU Assembly (March 2023), the Senegalese delegation stated that this case was in no way political, that Mr. Sonko's rights had been respected throughout the proceedings and that justice should follow its course. The delegation was heard again by the Committee on the Human Rights of Parliamentarians in October 2023 at the 147th IPU Assembly. On this occasion, the delegation reaffirmed that the Senegalese judiciary was independent and impartial, that Mr. Sonko's rights had been scrupulously respected and that all necessary steps had been taken,

with the help of the Senegalese Prison Administration Directorate and the medical services of the main Dakar hospital, to provide him with medical care. With regard to the decision of the Ziguinchor Court mentioned above, the delegation told the Committee that, as the State of Senegal had decided to seek the remedy of appeal available to it, this decision was not final, and that as the judge had not yet handed down a final ruling, Mr. Sonko could not be reinstated on the electoral list.

In January 2024, the complainant informed the Committee that Mr. Sonko had not been included in the final list of candidates authorized by the Constitutional Council to take part in the presidential elections scheduled for February 2024. According to the complainant, the Constitutional Council had not accepted Mr. Sonko's candidate file because the payment receipt for the deposit required for acceptance as a candidate was missing. In this regard, the complainant stated that the police had allegedly obstructed access to the headquarters of the public institution from where the payment receipt had to be obtained, which had been brought to the attention of the Constitutional Council at the time the candidate file was submitted. Documents in support of proof of payment were reportedly included in the file, according to the Council's jurisprudence. The complainant also stated that, in its ruling no. 72 of 17 November 2023, the Supreme Court had quashed and set aside in its entirety Order No. 01 of 12 October 2023 of the President of the Ziguinchor Court – mentioned above – referring the case to the Dakar regional civil court (*Tribunal d'Instance hors classe de Dakar*). The latter, in Order No. 1 of 14 December 2023, had declared Mr. Sonko's removal from the electoral list null and void and ordered his reinstatement on the list.

The parliamentary authorities stated in a letter received on 25 January 2024 that, on 4 January 2024, the Supreme Court of Senegal had upheld the ruling of the Dakar Court of Appeal, finding Mr. Sonko guilty of libel in the case brought by the Minister of Tourism but did not pass a custodial sentence. As for Mr. Sonko's candidate file, the parliamentary authorities confirmed that the Constitutional Council had deemed Mr. Sonko's candidate file to be incomplete because there was no document proving payment of his deposit and that, as a result, the file had not been considered.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Senegalese Interparliamentary Group for its ongoing cooperation in the procedure and for systematically sending it updated observations on the case in question;
2. *Notes with interest* the observations provided in writing by the Senegalese Inter-Parliamentary Group stating that Mr. Sonko's candidate file was deemed to be incomplete by the Constitutional Council because there was no payment receipt signed by the Director General of the *Caisse des Dépôts et Consignations* proving payment of the deposit, contrary to Article L.122 of the Electoral Code; *notes*, nevertheless, that, according to the information provided by the complainant, the Constitutional Council was officially informed, at the time he declared his intention to stand as a candidate, that it would not be possible to produce the said payment receipt; *notes* also that, according to the complainant, documents in support of payment were included in the file; and *wishes* in this respect to receive detailed information on why the Constitutional Council ignored the complainant's arguments as to why it had been materially impossible to produce the required document;
3. *Recalls*, once again, that Mr. Sonko has his sights set on the State's highest office, that he came third in the 2019 presidential elections and that he had already been prevented from standing as a candidate in the legislative elections of July 2022; *considers* that the position taken by the Constitutional Council on Mr. Sonko's candidate file is part of ongoing actions by state institutions that had begun when he was an opposition member of parliament; *notes* that Mr. Sonko was apparently permanently excluded from the presidential race in 2024 after being the subject of several legal proceedings, and that the fact that he was unable to submit a complete candidate file does not appear, beyond all reasonable doubt, to be his fault; and *recalls* that in the past, other opposition candidates in Senegal have found themselves unable to exercise their right to participate in political and public affairs under conditions of equality after having been the subject of court decisions;

4. *Reaffirms* that, according to both the letter and spirit of the IPU [Universal Declaration on Democracy](#), the key to the functioning of democracy is the holding of free elections at regular intervals enabling the people's will to be expressed on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness and transparency; consequently, *reiterates its concern* at the complainant's allegations that Mr. Sonko is the subject of state harassment and a politically motivated prosecution aimed at preventing him from standing in the forthcoming presidential elections, allegations which seem to be borne out by the facts, such as Mr. Sonko's detention, the increasing number of convictions against him, the fact that his representatives are unable, firstly, to procure the forms for collecting the citizen sponsorships required for validating his candidacy and, secondly, to obtain the payment receipt signed by the Director General of the *Caisse des Dépôts et Consignations* proving payment of the deposit required by law; *urges*, in this respect, once again, the competent authorities to take all necessary steps to ensure that the conditions for the holding of such elections are met so that all candidates in the February 2024 presidential elections, including opposition candidates and their supporters, can exercise their fundamental right to take part in the conduct of public affairs on an equal footing with the ruling party and its supporters; and *calls on* the parliamentary authorities to provide information on any steps taken to this end;
5. *Remains* deeply concerned at Mr. Sonko's state of health, in particular at reports that he has required emergency treatment on several occasions; *urges* the national authorities to continue to take the necessary steps to protect Mr. Sonko's life; *once again invites* the National Assembly to ensure the necessary follow-up in this respect within its powers; and *requests* the parliamentary authorities to provide information on any action taken to this end;
6. *Regrets* that, despite the assurances of support given in this regard by the Senegalese delegation at the 147th IPU Assembly, the mission to Senegal requested by the Committee has still not been formally accepted by the competent authorities; *reiterates its wish* to send a delegation to Senegal as soon as possible in order to visit Mr. Sonko in detention and to meet with all legislative, executive and judicial authorities as well as prison authorities and all other institutions or civil society organizations or any individual able to provide relevant information on this case; and *hopes* that the competent national authorities will cooperate fully and that the mission will be able to settle this case in a satisfactory manner, in compliance with the applicable national and international human rights standards;
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. *Decides* to continue examining this case.



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Senegal

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



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

SEN-07 – Khalifa Ababacar Sall

Alleged human rights violations

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

A. Summary of the case

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

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

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

Case SEN-07

Senegal: Parliament affiliated to the IPU

Victim: Opposition member of parliament, mayor of Dakar

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

Submission of complaint: November 2017

Recent IPU decision: October 2018

IPU mission(s): - - -

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

Recent follow-up

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

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

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

B. Decision

The Governing Council of the Inter-Parliamentary Union

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