



Inter-Parliamentary Union
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140th IPU Assembly

Doha (Qatar), 6 -10 April 2019



Committee on the Human Rights of Parliamentarians

Summary of the cases examined by the Committee
at its 159th session, 5 to 9 April 2019

CONTENTS

	Page
Africa	
• Democratic Republic of Congo:	
Mr. Pierre Jacques Chalupa	1
Twenty-nine members of parliament.....	3
Mr. Eugène Diomi Ndongala.....	5
Mr. Dieudonné Bakungu Mythondeke.....	6
Mr. Adrien Phoba	8
Mr. Martin Fayulu Madidi	9
Mr. Franck Diongo.....	11
• Nigera:	
Mr. Amadou Hama	12
Mr. Seidou Bakari.....	14
• Uganda: Five parliamentarians	16
Americas	
• Ecuador: Mr. José Cléver Jiménez Cabrera.....	18
• Venezuela: Sixty-one parliamentarians.....	20
Asia	
• Maldives: Seven parliamentarians.....	23
• Mongolia: Mr. Zorig Sangasuuren	25
• Philippines: Four parliamentarians.....	27
• Philippines: Ms. Leila de Lima	29
• Philippines: Mr. Antonio Trillanes.....	31
Europe	
• Turkey: Sixty-one parliamentarians	33



#IPU140

Democratic Republic of the Congo



COD-32 - Pierre Jacques Chalupa

Alleged human rights violations:

- ✓ Other violations (arbitrary stripping of nationality) (4)

Summary of the case

Mr. Chalupa, a former opposition member of parliament who was arbitrarily disqualified in 2007 in a case that had come before the Committee at that time, was refused recognition of his Congolese nationality after being sentenced to three years' imprisonment on 23 January 2013 for forgery and use of falsified documents in connection with his acquisition of Congolese nationality. Following proceedings marked by irregularities, a trial observer (July-August 2012), a Committee delegation on mission in Kinshasa (June 2013) and the Governing Council (October 2013) concluded that it could not be ruled out that the case was politically motivated and intended to remove Mr. Chalupa from politics because he had joined the opposition in the November 2011 elections. Mr. Chalupa was subsequently granted a presidential pardon; he was released on 22 November 2013 after having served over half his sentence.

Mr. Chalupa was suffering from cancer that developed during his detention. He was only able to benefit from chemotherapy after his release. On 11 March 2019, Mr. Chalupa died of cancer at the Kinshasa Cinquantenaire Hospital.

The question of his nationality has never been resolved by the Congolese authorities. In late April 2016, for humanitarian reasons the authorities granted a passport to Mr. Chalupa to allow him to seek treatment abroad. In August 2016,

Case COD-32

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Opposition member of parliament in the previous legislature

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

Submission of complaint(s): February 2012

Recent IPU decision: [October 2016](#)

IPU mission: [June 2013](#)

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session (January 2017)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letters to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: **March 2019** ■

Mr. Chalupa was informed that his application for naturalization had been rejected by a decree of the Council of Ministers dated 22 July 2016, on the principal grounds that "his behaviour and conduct are a sign of lack of respect for the institutions".

Democratic Republic of the Congo



© Albert Bialufu Ngnadu

- | | |
|--|---------------------------------------|
| COD49 - Albert Bialufu Ngandu | COD64 - Edouard Kiaku Mbuta Kivuila |
| COD50 - André Ndala Ngandu | COD65 - Odette Mwamba Banza (Ms.) |
| COD51 - Justin Kiluba Longo | COD66 - Georges Kombo Ntonga Booke |
| COD52 - Shadrack Mulunda Numbi Kabange | COD67 - Mabuya Ramazani Masudi Kilele |
| COD53 - Héritier Katandula Kawinisha | COD68 - Célestin Bolili Mola |
| COD54 - Muamus Mwamba Mushikonke | COD69 - Jérôme Kamate |
| COD55 - Jean Oscar Kiziamina Kibila | COD70 - Colette Tshomba (Ms.) |
| COD56 - Bonny-Serge Welu Omanyundu | COD73 - Bobo Baramoto Maculo |
| COD57 - Jean Makambo Simol'imasa | COD74 - Anzuluni Bembe Isilonyonyi |
| COD58 - Alexis Luwundji Okitasumbo | COD75 - Isidore Kabwe Mwehu Longo |
| COD59 - Charles Mbuta Muntu Lwanga | COD76 - Michel Kabeya Biaye |
| COD60 - Albert Ifefo Bombi | COD77 - Jean Jacques Mutuale |
| COD61 - Jacques Dome Mololia | COD78 - Emmanuel Ngoy Mulunda |
| COD62 - René Bofaya Botaka | COD79 - Eliane Kabare Nsimire (Ms.) |
| COD63 - Jean de Dieu Moleka Liambi | |

Alleged human rights violations:

- ✓ Arbitrary invalidation of the election of a parliamentarian (2.4.1)
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings (1.8.1 and 1.8.2)
- ✓ Right of appeal (1.8.4)

Summary of the case

Following the legislative elections of November 2011, the Supreme Court arbitrarily invalidated the election and mandates of 32 members of parliament (including the 29 above), who had held seats in the National Assembly since the announcement of the provisional results in late January 2012. The disqualified members appealed against the decision, but all appeals were rejected by the Court without examination of

the merits. The African Commission on Human and Peoples' Rights reached the same conclusions as the IPU in 2016 in the case of Mr. Bialufu Ngandu (COD-49). It ordered the DRC to pay the salaries and parliamentary allowances due for the whole duration of the parliamentary mandate, as well as damages and interest in compensation for any injustice suffered.

The Speaker of the National Assembly refused to compensate the members of parliament for any injustice suffered and requested assistance from the executive branch in April 2016. The disqualified members have never received any compensation for the arbitrary revocation of their mandates. In terms of legislation, the recommendations on amending the electoral law to tighten the conditions of eligibility, improve the mechanisms for resolving election disputes and allow the electoral dispute procedure to be wound up before the elections are validated by both houses of parliament were not taken into account by the Congolese authorities. The National Assembly indicated that it supported amending the Congolese Constitution to introduce a system of appeal for the benefit of parliamentarians and to modify the procedure for validation of elected officials. However, those reforms have not been carried out.

Case COD-COLL-01

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): 29 members of parliament (who brought their cases before the Committee out of a group of 32 affected) - 26 men and three women; seven members of opposition political parties, one independent and 21 members of the presidential majority

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

Submission of complaint: May to September 2012

Recent IPU decision: [March 2016](#)

IPU mission: [June 2013](#)

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session (January 2017)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communications addressed authorities: Letters to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

Democratic Republic of the Congo



Frank Diongo visits Eugène Diomi Ndongala at Kinshasa Hospital, March 20, 2019
© Photo courtesy / Family of Diomi Ndongala

COD-71 - Eugène Diomi Ndongala

Alleged human rights violations:

- ✓ Lack of due process at the investigation stage (1.8.1)
- ✓ Lack of fair trial proceedings (1.8.2)
- ✓ Right of appeal (1.8.4)
- ✓ Violation of freedom of opinion and expression (2.1)
- ✓ Violation of freedom of movement (2.3)

Summary of the case

Mr. Ndongala has been subjected to a campaign of political and legal harassment aimed at removing him from the political process since June 2012. In April 2013, he was arrested, and on 26 March 2014, he was sentenced to ten years' imprisonment for rape (for engaging in sexual relations with consenting children in return for payment) following a trial marred by serious irregularities. The Committee concluded that the case was highly political and that Mr. Ndongala's fundamental rights had been violated. On 3 November 2016, the United Nations Human Rights Committee reached similar conclusions and called for his release.

Mr. Ndongala was excluded from the presidential pardon granted to political prisoners by the new President of the DRC following elections held in December 2018. The Minister of Justice granted him parole on 20 March 2019 and Mr. Ndongala was released. However, the restrictive conditions attached to the parole prohibit him from making political statements, engaging in political activities and moving around freely until April 2023.

Case COD-71

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint: July and December 2012

Recent IPU decision: [October 2018](#)

IPU mission: [June 2013](#)

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session (January 2017)

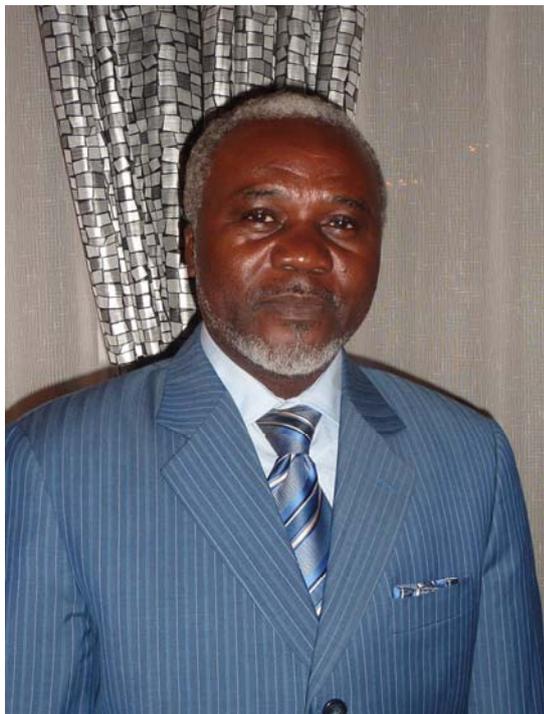
Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communication addressed to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

Democratic Republic of the Congo



Mr. Mythondeke © IPU June 2013

COD72 – Dieudonné Bakungu Mythondeke

Alleged human rights violations:

- ✓ Threats, acts of intimidation (1.5)
- ✓ Violation of freedom of movement (2.3)

Summary of the case

Mr. Mythondeke was arrested, together with his family and bodyguards, in disputed circumstances, in February 2012. Charged with rebellion and breaches of State security, he was acquitted of all charges brought against him, but was sentenced in first and final instance by the Supreme Court on 25 February 2012 to 12 months' imprisonment for incitement to hatred. The judicial process was characterized by irregularities, which were largely reflected in the Supreme Court decision. Mr. Mythondeke was released on 28 January 2013 after serving his sentence. The complainants reported that Mr. Mythondeke won a civil claims case against the Congolese State in 2015.

Given the concerns for their safety and the absence of any measures by the DRC authorities to ensure the protection of Mr. Mythondeke and his family and put an end to the threats, they took refuge abroad in early 2014. Even so, they continue to receive regular threats while in exile, and according to the complainant, their relatives who remained in the DRC are subjected to intimidation. This is why Mr. Mythondeke cannot return to the DRC at this time without fearing for his life and was unable to stand as a candidate in the legislative elections due to be held in December 2018. According to the complainant,

Case COD72

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): A member of parliament for the majority, having joined the opposition at the time the facts of the case

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

Submission of complaint: August 2012, May 2014

Recent IPU decision: [March 2016](#)

IPU mission: [June 2013](#)

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session (January 2017)

Recent follow-up

- -Communication from the authorities: Letter from the Speaker of the National Assembly (April 2019)
- Communication from the complainant: March 2019
- Communication addressed the authorities: Letter addressed to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019

Mr. Mythondeke wishes to relocate to another country. The complainants have reported that Mr. Mythondeke has not obtained any assistance in regard to relocation because, according to United Nations reports, he provided substantial financial and political support to an armed group before his arrest. Mr. Mythondeke denies those accusations, and invokes the presumption of innocence.

The Speaker of the National Assembly reported in a letter dated 21 August 2017 that he had asked the executive to launch investigations into the reasons why Mr. Mythondeke went into exile and to seek proposals on how to facilitate his return.

Democratic Republic of the Congo



© Adrien Phoba

COD82 - Adrien Phoba

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence (1.4)
- ✓ Excessive delays (1.8.3)
- ✓ Impunity (3)

Summary

According to the complainant, Mr. Adrien Phoba Mbambi, a deputy of the opposition, was attacked on 22 February 2014 when travelling, with his supporters, to a meeting in Boma organized in his constituency to present the local population with an account of his parliamentary activities. He suffered a serious eye injury and was afforded medical care in Belgium covered by the National Assembly.

Despite the judicial complaint lodged by the deputy, the attackers have never been arrested and no steps have been taken by the authorities to punish the culprits. The alleged attackers – arrested at the time of the incident – were reportedly released by order of the local authorities shortly afterwards.

In January 2016, the Minister of Justice confirmed to the Speaker of the National Assembly that two cases had, indeed, been opened by the Public Prosecutor's Office in Boma into Mr. Phoba's complaint. He stated that the Public Prosecutor's Office was waiting for Mr. Phoba to provide his input in the two cases by substantiating his complaint and providing the addresses of the suspects. In August 2017, the Speaker of the National Assembly stated that he had requested the Minister of Justice to instruct the Public Prosecutor's Office to track down the perpetrators of the attack and bring them to justice.

Mr. Phoba was re-elected in the legislative elections held in December 2018.

Case COD82

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Opposition member of parliament

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

Submission of complaint: June 2014

Recent IPU decision: [March 2016](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session (January 2017)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letters to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

Democratic Republic of the Congo



© IPU 2015

COD85 - Martin Fayulu Madidi

Alleged human rights violations

✓ Impunity (3)

Summary of the case

The complainant, Mr. Fayulu, is a parliamentarian and leader of an opposition political party. He alleges that on 14 February 2016, officers of the intelligence services assaulted, arrested and arbitrarily detained him before releasing him that same evening. His vehicle and personal belongings were confiscated and never returned back to him. The incident took place two days before a national day of protest that was being jointly organized by opposition parties. Mr. Fayulu filed a complaint against his arbitrary arrest and the violation of his rights and parliamentary immunity. According to the complainant, the complaint has not been dealt with by the courts.

On 19 September 2016, during a protest by the opposition in Kinshasa, Mr. Fayulu sustained an injury to his head. The complainant claims that he was deliberately targeted by a police officer who allegedly attempted to assassinate him. He filed a complaint to no avail. The authorities considered that the opposition had planned the violence committed during the demonstrations and that their leaders, including Mr. Fayulu, had given slogans inciting their supporters to violence. The United Nations' investigations into the successive incidents that took place at the end of 2016 led to different conclusions, mainly involving the security forces, which continue to act with complete impunity.

These successive incidents occurred at a time of political tension in the DRC following the postponement of the legislative and presidential elections scheduled

Case COD85

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Former opposition member of parliament

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

Submission of complaint: March 2016

Recent IPU decision: [October 2016](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session (January 2017)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly - not mentioning the case (October 2017)
- Communication from the complainant: October 2018
- Communication from the IPU: Letter addressed the Head of State, to the Speaker of the National Assembly and to the Vice-President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

under the Constitution to take place before the end of 2016. The complainant has always asserted that these actions had been taken against Mr. Fayulu because of his stance in favour of the Head of State stepping down at the end of his term of office, his role in coordinating an opposition platform, and his candidacy for the presidential elections.

In late 2016 and early 2017, the Speaker of the National Assembly stated that he had intervened to secure Mr. Fayulu's release in February 2016. He believed that he was not required to take any further measures, given that the case had been referred to the courts. He stated that he had forwarded the Committee's concerns to the Prosecutor General.

Following the presidential elections of 30 December 2018, Mr. Martin Fayulu and Mr. Félix Tshisekedi both claimed they won the elections. However, on 20 January 2019, the Constitutional Court confirmed Mr. Félix Tshisekedi's victory. Mr. Fayulu continues to contest the results and, in a sign of protest, has resigned from his position as parliamentarian.

Democratic Republic of the Congo



Franck Diongo, President of the MLP, Congolesse opposition party © AFP Photo / Papy Mulongo

COD86 – Franck Diongo

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence (1.4)
- ✓ Impunity (3)
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings (1.8.1 and 1.8.2)
- ✓ Right of appeal (1.8.4)

Summary of the case

Mr. Diongo, an opposition member of parliament, was arrested together with several activists from his political party at his home on 19 December 2016 by presidential guard soldiers. He was reportedly tortured and then summarily tried under an accelerated procedure, despite a worrying medical condition as a result of ill-treatment in detention. On 28 December 2016, he was sentenced, in both the first and the last instance, to five years in prison for arbitrary arrest and illegal detention aggravated by torture. The authorities have taken no action to punish any of the perpetrators of the acts of torture committed against the member of parliament.

Mr. Diongo's arrest and conviction took place in the context of the protests to postpone elections in the DRC, the extension of President Kabila's mandate (which should have ended on 19 December 2016) and the increased repression against the opposition and civil society. His arrest occurred amidst a wave of arrests and acts of violence on 19 and 20 December 2016 unleashed by the Congolesse security forces to prevent any demonstrations by the opposition taking place. Mr. Diongo was the only politician who dared to continue calling on people to protest on that symbolic date.

Following Mr. Felix Tshisekedi's victory in the December 2018 presidential elections, he granted presidential pardons to more than 700 political prisoners on 13 March and Mr. Diongo was released.

Case COD86

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim(s): Opposition member of parliament

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

Submission of complaint: December 2016

Recent IPU decision: [October 2018](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of the DRC at the 152nd session of the Committee (January 2017)

Recent follow-up

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainants: March 2019
- Communications addressed authorities: Letters to the Head of State, the acting Speaker of the National Assembly and the Deputy President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019

Niger



Amadou Hama © IPU 2018

NER115 - Amadou Hama

Alleged human rights violations

- ✓ Failure to respect parliamentary immunity (2.4.3)
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings (1.8.1 and 1.8.2)
- ✓ Excessive delays (1.8.3)
- ✓ Violation of freedom of opinion and expression (2.1)
- ✓ Abusive revocation of the parliamentary mandate (2.4.2)

Summary of the case

Mr. Amadou Hama, former Speaker of the National Assembly and leading member of the opposition, has been exiled in France since 2014 as a result of legal proceedings brought against him. He was convicted in absentia by the Court of Appeal and sentenced to one year in prison in March 2017 for the offence of aiding and abetting the concealment of newborns. On 11 April 2018, the Court of Cassation upheld the conviction, making Mr. Hama ineligible for the next elections; the Constitutional Court terminated his parliamentary mandate on 25 June 2018.

The complainant alleges that Mr. Hama's parliamentary immunity and right to a defence have been violated, that the accusations made against him are unfounded and that legal proceedings were conducted in a manner that was neither impartial nor independent. In the complainant's view, Mr. Hama has been subjected to acts of political and legal harassment since his party sided with the opposition in August 2013. The complainant points out that these acts intensified when Mr. Hama refused to resign from his post of Speaker of the National Assembly and in the run-up to the presidential elections in February 2016. Mr. Hama came in second in the presidential election, despite having been in detention throughout the electoral campaign. His lawyers have filed a complaint with the ECOWAS Court of Justice. The procedure is ongoing. The next hearing is scheduled for 15 May 2019.

Case NER115

Niger: Parliament affiliated to the IPU

Victim(s): A former opposition member of the National Assembly

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

Submission of complaint: October 2014

Recent IPU decision: [March 2018](#)

IPU Mission: - - -

Recent Committee hearings: Hearing with the delegation of Niger at the 138th IPU Assembly (March 2018)

Recent follow-up

- Communication from the authorities: Letters from the Deputy Speaker of the National Assembly (April 2019)
- Communication from the complainant: April 2019
- Communications addressed to the authorities: Letters to the Speaker of the National Assembly and the Minister of Justice (March 2019)
- Communication addressed to the complainant: April 2019

IPU technical assistance: No

Last report update: March 2019 ■

The parliamentary authorities, who in May 2018 refused to authorize a Committee mission, maintain that the case is in no way politically motivated and that the relevant procedures have been respected. In January 2019, the National Assembly reiterated its position that the case is definitively closed.

Niger



© Seidou Bakari

NER116 – Seidou Bakari

Alleged human rights violations

- ✓ Arbitrary arrest and detention (1.6)
- ✓ Lack of due process at the investigation stage (1.8.1)
- ✓ Excessive delays (1.8.3)
- ✓ Failure to respect parliamentary immunity (2.4.3)
- ✓ Violation of freedom of opinion and expression (2.1)

Summary of the case

On 28 July 2015, the Bureau of the National Assembly authorized the arrest of member of parliament Seidou Bakari, Chair of the parliamentary group of the MODEN/FA Lumana-Africa party, without first affording him a hearing. Upon his failure to win re-election and at the end of his parliamentary mandate, he was arrested on 16 May 2017, and has been held in pretrial detention without trial since that date.

Mr. Seidou Bakari is accused of embezzling public funds in 2005 while he was coordinating a food crisis unit placed under the office of the Prime Minister, who at that time was Mr. Amadou Hama (NER115), principal opponent of the current Head of State.

According to the complainant, the member's parliamentary immunity was not respected, in that he was not given a hearing by the Bureau and that no criminal accusation had been made against him before his immunity was lifted. The complainant considers that his continuing detention and the lack of progress in the judicial proceedings are deliberate and represent violations of Mr. Bakari's fundamental right to be tried without excessive delay and in an equitable manner. His requests for interim release were reportedly rejected in violation of the Code of Penal Procedure. The complainant

Case NER116

Niger: Parliament affiliated to the IPU

Victim(s): A former opposition member of the National Assembly

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

Submission of complaint: September 2015

Recent IPU decision: [March 2018](#)

IPU Mission: - - -

Recent Committee hearing: Hearing with the delegation of Niger at the 138th IPU Assembly (March 2018)

Recent follow up

- Communication from the authorities: Letters from the Deputy Speaker of the National Assembly (January 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter to the Speaker of the National Assembly and the Minister of Justice (March 2019)
- Communication addressed to the complainant: March 2019

IPU Technical assistance: No

Last report update: March 2019 ■

also alleges violation of his rights to defence and failure by the investigating judge to take account of the exculpatory evidence furnished by Mr. Bakari's attorney.

The complainant asserts that the charges brought against Mr. Bakari are unfounded, and that no funds were embezzled by the food emergency committee (CCA). He states that Mr. Bakari was tasked simply with implementing decisions taken collectively by the CCA, and had no power to take individual decisions or order expenditure. He pointed out that all the CCA's decisions were recorded in writing. He recalled that Niger's international partners had been satisfied with the way the funds and the food crisis were being managed, at the time, and had officially thanked Mr. Bakari for his work (letter transmitted by the complainant). According to the complainant, several international audits had been carried out over the years of the CCA's operation, in order to certify its accounts

The complainant asserts that Mr. Bakari is the victim of political and judicial harassment purely because he is a member of the opposition and a close collaborator of Mr. Amadou Hama. As a member of parliament and chairperson of his parliamentary group, he supported Mr. Hama – then Speaker of the National Assembly – when the latter was subjected to criminal proceedings. Mr. Hama had announced previously that his party would be siding with the opposition in the next presidential elections.

According to the parliamentary authorities, who refused to authorize a Committee mission in May 2018, the case is not political in nature and the relevant procedures have been respected. No information was provided by the authorities on Mr. Bakari's prolonged detention, the alleged acts being prosecuted or the reasons why charges were brought against Mr. Bakari 12 years after the acts in question. The Speaker of the National Assembly said he had been unable to obtain any answers owing to the principle of the separation of powers and the confidentiality of preliminary investigations.

Uganda



Mr. Robert Kyagulanyi, better known as Bobi Wine, appears at the High Court in Gulu, Northern Uganda, on 27 August 2018. Stringer / AFP

UGA19 - Robert Kyagulanyi Ssentamu (aka Bobi Wine)

UGA20 - Francis Zaake

UGA21 - Kassiano Wadri

UGA22 - Gerald Karuhanga

UGA23 - Paul Mwiru

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence (1.4);
- ✓ Arbitrary arrest and detention (1.6);
- ✓ Lack of due process at the investigation stage (1.8.1) and lack of fair trial proceedings (1.8.2);
- ✓ Violation of freedom of opinion and expression (2.1);
- ✓ Impunity (3).

Summary of the case

Five opposition parliamentarians were violently arrested on 14 August 2018, together with 29 other people, in the district of Arua, after President Yoweri Museveni's convoy was reportedly pelted with stones. According to credible reports - confirmed by the parliamentary authorities - two of the parliamentarians, Mr. Kyagulanyi and Mr. Zaake, were tortured on 14 August 2018. All those arrested, including the five parliamentarians, were charged with treason, which in Uganda carries the death penalty. Judicial investigations have been extended by the court at the request of the Prosecutor's Office. In January 2019, the parliamentary authorities stated that the treason charges had been dropped while the complainant confirmed, after contacting the Prosecutor's Office, that the charges were still pending against the members of parliament. Furthermore, Mr. Zaake was arrested and charged with treason as well on 21 February 2019. He was granted bail on 4 March.

The complainants claim that due process guarantees have been violated from the outset, that the parliamentarians are victims of political repression, as there is no evidence to

Case UGA-Coll-01

Uganda: Parliament affiliated to the IPU

Victim(s): Five male parliamentarians (including three young parliamentarians and a parliamentarian-elect); four independent and one opposition parliamentarian,

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

Submission of complaint: August 2018

Recent IPU decision: [October 2018](#)

IPU missions: - -

Recent Committee hearing: Hearing with the Ugandan delegation to the 139th IPU Assembly (October 2018)

Recent follow-up:

- Communications from the authorities: Letter from the Attorney General; letter from the Speaker of Parliament to the Minister of Foreign Affairs; Letter from the Speaker of Parliament (October, November 2018 and February 2019)
- Communication from the complainant: March 2019
- Communication(s) addressed to the authorities: Letters addressed to the Attorney General, the Minister of Foreign Affairs, the Minister of Internal Affairs, the Director of Public Prosecutions, the Permanent Representative of Uganda in Geneva and the Speaker of Parliament: March 2019
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

support the charges brought against them, and that no action has been taken to hold to account the security forces that mistreated them upon their arrest.

The incidents took place on the last day of campaigning ahead of the Arua district by-elections held on 15 August 2018. Mr. Kyagulanyi had travelled to Arua with the other parliamentarians to canvass support for Mr. Wadri, an independent candidate who was competing against candidates from the ruling party, the National Resistance Movement (NRM), and the largest opposition party, the Forum for Democratic Change (FDC). Mr. Kyagulanyi is a popular young parliamentarian and a well-known singer who enjoys wide popularity among young people. Through his songs and, since 2017 through his parliamentary work, he has been a vocal critic of President Museveni and his government. Given Mr. Kyagulanyi's successful backing of other independent candidates in the recent by-elections, he has increasingly been regarded as a threat to the political establishment. Following his arrest, many people took to the streets throughout Uganda to demand his release.

An ad hoc parliamentary committee was immediately set up by the Speaker of the Parliament of Uganda to investigate the incidents and to visit the parliamentarians in detention. It concluded that at least four of the five parliamentarians had sustained injuries as a result of the violence inflicted upon them by the security forces, that there was a lack of due process in the proceedings against the parliamentarians and that the security officials responsible acted with impunity. It also concluded that accountability for these transgressions should be established. The Speaker of Parliament wrote to the President on 27 August 2018 and expressed concern that, "no effort has been made to arrest the security officers from the SFC, military police and Uganda police force who were involved in the violent actions against unarmed civilians. This conduct is in breach of the Prevention and Prohibition of Torture Act 2012 (...). This is, therefore, to demand that the officers concerned be apprehended at the earliest opportunity and presented in court. Unless this is done, it will be very difficult to conduct government business in parliament. The Uganda Parliament will not condone or acquiesce in acts of torture (...)".

President Museveni's response of 31 August 2018 advised that, "we await the outcome of the investigations (into the allegations of wrong doing if any) currently being carried out under the leadership of the Chief of Defence Forces and the Inspector General of Police and refrain from the use of the word 'torture' until we establish the full facts of the events of that day. However, I am sure you are aware that security forces are entitled to use reasonable force while dealing with a suspect who is resisting arrest in the execution of their mandate to protect civilians under threat by rioters or terrorists or even threat to property". The President stated that he had instructed the members of the Special Forces Command (SFC) to assist the police in dispersing the "menacing opposition groups" who "were clearly so intoxicated that they saw no problem in stoning the vehicle of the President of Uganda", and that "unfortunately one Ugandan was killed in this hooliganism, a number were injured by bullets and many were injured by stones". The President added, "I am most pleased with the actions of the security forces in dealing with the menace of rioters and minimizing the loss of life and property". This response was not officially shared with parliament despite requests of several members of parliament to that end. When parliament discussed the findings of the ad hoc committee on 5 September 2018, the Government was given one month to investigate and report back. However, the issue was apparently not raised again in parliament on the grounds that it was *sub judice*.

In his letter of 3 October 2018, the Attorney General stated that his office was still awaiting the reports of the police and defence forces and that indications so far pointed to the fact that, "the injuries that the two members of parliament may have suffered would be the result of the scuffles that characterized their apprehension due to their unwillingness to submit themselves to the arrest process".

In a letter dated 25 February 2019, the Speaker expressed support for the wish of the Committee to conduct a fact-finding mission to Uganda to interact with the executive and judicial branches but formal authorization to travel to Uganda has not yet been forthcoming.

Ecuador



© José Cléver Jiménez Cabrera

ECU68 - José Cléver Jiménez Cabrera

Alleged human rights violations:

- ✓ Violation of freedom of opinion and expression (2.1)
- ✓ Failure to respect parliamentary immunity (2.4.3)
- ✓ Lack of fair trial proceedings (1.8.2)
- ✓ Threats, acts of intimidation (1.5)

Summary of the case

In 2013, Mr. José Cléver Jiménez, then a member of the National Assembly, together with adviser and journalist Fernando Alcibiades Villavicencio and union leader Carlos Eduardo Figueroa, was sentenced at first and second instance for criminal judicial defamation against the then President Rafael Correa. The complainant considers, unlike the Ecuadorian authorities, that the action taken against Mr. Cléver Jiménez violates his right to freedom of expression and parliamentary immunity. The sentence was never carried out, as Mr. Cléver Jiménez remained at large. On 24 March 2014, the Inter-American Commission on Human Rights (IACHR) adopted precautionary measures and requested the State of Ecuador to suspend implementation of the sentence. As the State refused to observe the request, Mr. Cléver Jiménez presented a legal action before the Constitutional Court for non-observance of the IACHR precautionary measures. In March 2015, the Supreme Court of Justice ordered the police not to arrest Mr. Cléver Jiménez, as the statute of limitations for implementation of the sentence had run out. Still, former President Correa pursued the matter in court so as to obtain the financial compensation awarded to him by the Court and the public apology that Mr. Cléver Jiménez and the two others were ordered to make. It appears that, in the end, Mr. Villavicencio was taken to court to pay, on behalf of the three convicts, the financial compensation awarded to former President Correa.

Case ECU68

Ecuador: Parliament affiliated to the IPU

Victim(s): An opposition member of parliament

Qualified complainant(s): Section I (1)(a), (b) and (d) of the [Committee Procedure](#) (Annex 1)

Submission of complaint(s): February and June 2014; September 2016

Recent IPU decision: [October 2016](#)

IPU mission: - - -

Recent Committee hearings: Hearing with the Ecuador delegation during the 138th IPU Assembly (March 2018)

Recent follow-up

- Communication from the authorities: Letter from the Secretary General of the National Assembly (October 2018)
- Communication from the complainant: January 2018
- Communication addressed to the authorities: Letter addressed to the Secretariat of International Relations of the National Assembly (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

In mid-2013, Mr. Cléver Jiménez denounced the possible conflict of interest by the Government of Ecuador in the purchasing of legal services. According to the complainant, rather than investigating these denunciations, the Prosecutor's Office chose to initiate an investigation into Mr. Cléver Jiménez with regard to his revelations, first on accusations that he was guilty of hacking, accusations that were later dropped, and later that he had disclosed secret information. On 28 October 2016, the judge in this case ordered his pretrial detention, which was subsequently converted into house arrest. Mr. Cléver Jiménez was ordered to wear an electronic device around his ankle and to report every week to the President of the Provincial Court of Pichincha. On 12 April 2018, the National Court of Justice, following the Prosecutor Office's decision at the end of the trial not to ask for his conviction and punishment, confirmed his innocence and dismissed the proceedings.

Venezuela



Venezuela's Speaker of the National Assembly Juan Guaidó speaks before a crowd of opposition supporters during an open meeting in Caraballeda, Venezuela, on 13 January 2019 © Yuri CORTEZ / AFP

- VEN-10 - Biagio Pilieri
- VEN-11 - José Sánchez Montiel
- VEN-12 - Hernán Claret Alemán
- VEN-13 - Richard Blanco
- VEN-16 - Julio Borges
- VEN-19 - Nora Bracho (Ms.)
- VEN-20 - Ismael Garcia
- VEN-22 - William Dávila
- VEN-24 - Nirma Guarulla (Ms.)
- VEN-25 - Julio Ygarza
- VEN-26 - Romel Guzamana
- VEN-27 - Rosmit Mantilla
- VEN-28 - Enzo Prieto
- VEN-29 - Gilberto Sojo
- VEN-30 - Gilber Caro
- VEN-31 - Luis Florido
- VEN-32 - Eudoro González
- VEN-33 - Jorge Millán
- VEN-34 - Armando Armas
- VEN-35 - Américo De Grazia
- VEN-36 - Luis Padilla
- VEN-37 - José Regnault
- VEN-38 - Dennis Fernández (Ms.)
- VEN-39 - Olivia Lozano (Ms.)
- VEN-40 - Delsa Solórzano (Ms.)
- VEN-41 - Robert Alcalá
- VEN-42 - Gaby Arellano (Ms.)
- VEN-43 - Carlos Bastardo
- VEN-44 - Marialbert Barrios (Ms.)
- VEN-45 - Amelia Belisario (Ms.)
- VEN-46 - Marco Bozo
- VEN-47 - José Brito
- VEN-48 - Yanet Fermin (Ms.)
- VEN-49 - Dinorah Figuera (Ms.)
- VEN-50 - Winston Flores
- VEN-51 - Omar González
- VEN-52 - Stalin González
- VEN-53 - Juan Guaidó
- VEN-54 - Tomás Guanipa
- VEN-55 - José Guerra
- VEN-56 - Freddy Guevara
- VEN-57 - Rafael Guzmán
- VEN-58 - María G. Hernández (Ms.)
- VEN-59 - Piero Maroun
- VEN-60 - Juan A. Mejía
- VEN-61 - Julio Montoya
- VEN-62 - José M. Olivares
- VEN-63 - Carlos Paparoni
- VEN-64 - Miguel Pizarro
- VEN-65 - Henry Ramos Allup
- VEN-66 - Juan Requesens
- VEN-67 - Luis E. Rondón
- VEN-68 - Bolivia Suárez (Ms.)
- VEN-69 - Carlos Valero
- VEN-70 - Milagro Valero (Ms.)
- VEN-71 - German Ferrer
- VEN-72 - Adriana d'Elia (Ms.)
- VEN-73 - Luis Lippa
- VEN-74 - Carlos Berrizbeitia
- VEN-75 - Manuela Bolivar (Ms.)
- VEN-76 - Servio Vergara

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence (1.4)
- ✓ Threats, acts of intimidation (1.5)
- ✓ Arbitrary arrest and detention (1.6)
- ✓ Lack of due process at the investigation stage (1.8.1)
- ✓ Excessive delays (1.8.3)
- ✓ Violation of the right to freedom of opinion and expression (2.1)
- ✓ Violation of freedom of assembly and association (2.2)
- ✓ Violation of freedom of movement (2.3)
- ✓ Abusive revocation or suspension of the parliamentary mandate (2.4.2)
- ✓ Failure to respect parliamentary immunity (2.4.3)
- ✓ Other acts obstructing the exercise of the parliamentary mandate (2.4.5)
- ✓ Other violations: right to privacy (4)

Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 60 parliamentarians from the coalition of the 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 and to usurp its powers. The MUD opposes President Maduro's Government and obtained a majority of seats in the National Assembly following the parliamentary elections of 6 December 2015.

Soon after the elections, on 30 December 2015, the Electoral Chamber of the Supreme Court ordered the suspension of four members of parliament, three of them from the MUD, following allegations of fraud. The National Assembly first decided to disregard the ruling, considering the allegations to be baseless, which led the Supreme Court to declare all of the Assembly's decisions null and void. Failing any effort to examine the alleged fraud, the members of parliament were finally sworn in at the National Assembly on 16 July 2018.

Since March 2017, close to 40 parliamentarians have been attacked with impunity by law enforcement officers and pro-government supporters during demonstrations. These protests intensified after President Maduro announced the convening of a Constituent Assembly—which was subsequently elected on 30 July 2017—to rewrite the Constitution.

Invoking *flagrante delicto*, Mr. Juan Requesens was arrested and detained on 7 August 2018 on accusations of involvement in the alleged assassination attempt on President Maduro three days earlier. There are serious concerns about his treatment in detention and respect for due process following the immediate lifting of his parliamentary immunity, not by the National but the Constituent Assembly. Nine other members of the National Assembly spent up to four years in detention in recent years, without respect for their parliamentary immunity and continue to be subject to reportedly politically motivated legal proceedings.

In 2017, six members of parliament had their passports confiscated arbitrarily in connection with their international parliamentary work. Two other members of parliament were disbarred from holding public office, allegedly in the absence of any legal basis. Six members of parliament, including former Speaker Borges, left Venezuela and obtained asylum abroad in the face of continued harassment and intimidation, whereas the then Deputy Speaker, Mr. Freddy Guevara, sought protection at the Chilean Embassy in Caracas, where he has been since November 2017. Today, many parliamentarians

Case VEN-COLL-06

Venezuela: Parliament affiliated to the IPU

Victim(s): 61 opposition members of parliament (46 men and 15 women)

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

Submission of complaint(s): March 2017

Recent IPU decision: [February 2019](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of Venezuela at the 139th IPU Assembly (October 2018)

Recent follow-up

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

IPU technical assistance: No

Last report update: March 2019 ■

continue to face regular harassment, such as in the case of Mr. Tomás Guanipa, who has faced physical attacks, baseless accusations, a plan to have him assassinated and house searches. A June 2018 UN human rights report documented extensively the attacks against political opponents, social activists and human rights defenders.

The Government has not provided any funding to the National Assembly since August 2016. In its decision of 18 August 2017, the Constituent Assembly invested itself with legislative powers. The Constituent Assembly has taken over many of the premises of the National Assembly. Even the limited space used by the National Assembly has been invaded and occupied, with several members of parliament taken hostage and beaten up with impunity by government supporters, most notably on 27 June and 5 July 2017.

Long-standing efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians (CHRP) to Venezuela have failed in the absence of cooperation from the Government to welcome and work with the delegation. In October 2018, the IPU governing bodies decided that the mission would be of an integrated nature, comprising members of the IPU Executive Committee and the CHRP and focusing on both the larger political matters at stake in the Venezuelan crisis and the specific concerns expressed by the CHRP.

Presidential elections took place on 20 May 2018. The MUD announced in February 2018 that it would boycott the elections, considering the electoral system to be rigged in favour of President Maduro, who obtained the most votes in elections that were widely criticized for failing to be free and fair. President Maduro was sworn in on 10 January 2019 for a second term.

On 13 January 2019, Mr. Juan Guaidó, the new Speaker of the National Assembly, was briefly detained by members of the National Bolivarian Intelligence Service (SEBIN).

On 15 January 2019, the National Assembly invoked the country's Constitution to declare the illegitimacy of President Maduro, and declared the presidency to be vacant. On 21 January 2019, the Supreme Court declared the Bureau of the National Assembly to be illegitimate and reaffirmed its position that all decisions by the National Assembly were null and void. On 23 January 2019, Mr. Guaidó publicly stated that, in conformity with the Constitution, he was ready to assume the interim presidency of Venezuela until free and fair elections were held, which decision was immediately endorsed by the National Assembly. Many countries in the Americas, including the United States and several members of the European Union, have since recognized Mr. Guaidó as President of Venezuela, which recognition is strongly opposed by several other countries from and outside the region including China, Cuba, the Islamic Republic of Iran, the Russian Federation and Turkey.

On 23 January 2019, in a ruling by the Supreme Court, the Public Prosecutor's Office was asked to examine whether, in light of the National Assembly's actions, the conduct of members of the National Assembly amounted to criminal behaviour. On 29 January 2019, the Supreme Court launched an investigation into Mr. Guaidó, accusing him of being responsible for the commission of crimes that go against the constitutional order. The Supreme Court froze his assets and prohibited him from disposing of movable and immovable property and from leaving the country for the duration of the investigation. In the early hours of 21 March 2019, Mr. Roberto Marrero, who is Mr. Guaidó's Chief of Staff, was arrested after his house and that of his neighbour, member of the National Assembly Mr. Sergio Vergara, were allegedly raided and both men were allegedly manhandled by the SEBIN. Mr. Marrero was subsequently taken into custody. On 28 March 2019, the Comptroller General of Venezuela decided to disbar Mr. Guaidó from holding public office for a period of 15 years, reportedly on accusations of usurping public functions, collaborating with foreign governments against the people of Venezuela and hiding information in his asset declarations. The Comptroller General reportedly requested the Prosecutor's Office to take the necessary action.

Maldives



Former president of the Maldives Mohamed Nasheed (centre) is embraced by Jumhoory Party leader Qasim Ibrahim (left) as President-elect Ibrahim Mohamed Solih (right) looks on after Nasheed returned from exile to the Maldives, in Male on 1 November 2018 © Ahmed SHURAU /AFP

MDV55 - Ahmed Mahloof
MDV60 - Abdulla Riyaz
MDV62 - Faris Maumoon
MDV63 - Ibrahim Didi
MDV64 - Qasim Ibrahim
MDV77 - Abdullah Sinan
MDV78 - Ilham Ahmed

Alleged human rights violations:

- ✓ Arbitrary arrest and detention (1.6)
- ✓ Lack of due process in proceedings against parliamentarians (1.8)
- ✓ Violation of freedom of opinion and expression (2.1)

Summary of the case

All seven members of the People's Majlis were allegedly subject to arbitrary arrest, detention and legal proceedings at a time when they and their parties were in strong opposition to the then President Yameen. Six of them were facing terrorism charges and, originally, the detention of five of them was ordered for the duration of their trials. The seventh member of parliament, Mr. Qasim Ibrahim, was sentenced in 2017, allegedly in the absence of a fair trial, and convicted of vote buying. Soon after his sentence was pronounced, he was allowed to leave the Maldives for medical treatment.

Presidential elections in the Maldives took place on 23 September 2018 and were won by Mr. Ibrahim Mohamed Solih, the joint candidate of four opposition parties. Following his election, all members of

Case MDV-COLL-01

Maldives: Parliament affiliated to the IPU

Victim(s): Seven opposition members of parliament

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

Submission of complaint(s): February 2012

Recent IPU decision: [February 2019](#)

IPU missions: March 2018, [October 2016](#), November 2013, [November 2012](#)

Recent Committee hearing: Hearing with the Maldives delegation at the 137th IPU Assembly (October 2017)

Recent follow-up:

- Communication from the authorities: Letter from the Deputy Secretary General of the People's Majlis (March 2018)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter addressed to the Speaker of the People's Majlis (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: Yes

Last report update: March 2019 ■

parliament in detention were released. Mr. Qasim Ibrahim was granted bail and, after returning to the Maldives, became the new Speaker. It is not clear whether the seven parliamentarians remain subject to criminal proceedings.

The IPU Secretary General was invited to and attended the swearing in of President Solih on 17 November 2018 and was able to ascertain some of the above facts. He also reported that some of the members of parliament concerned had been appointed to the Cabinet.

Mongolia



© Zorig Foundation

MNG01 - Zorig Sanjasuuren

Alleged human rights violations:

- ✓ Murder (1.1)
- ✓ Impunity (3)

Summary of the case

Mr. Zorig Sanjasuuren (Mr. Zorig) was assassinated on 2 October 1998. Regarded by many as the father of the democratic movement in Mongolia in the 1990s, Mr. Zorig was a member of parliament and acting Minister of Infrastructure. At the time, Mongolia was undergoing a period of political upheaval after the breakdown of the coalition government. Negotiations were in place to select the next Prime Minister. Mr. Zorig was being considered as a candidate for the post on the day he was killed. The murder is widely believed to have been a political assassination that was covered up.

Since a parliamentary report in July 2000 harshly criticized the severe deficiencies in the initial investigation, the Mongolian authorities have repeatedly affirmed that every effort was being made to identify the murderers and bring them to justice. Successive judicial investigative working groups were established and parliamentary committees were mandated to monitor, support and exercise oversight over the investigation.

However, little progress was reported. The investigation was entirely shrouded in secrecy, considered a “state secret” and handled primarily by the intelligence services, with recurring allegations over the years that a number of persons had been pressured and tortured in order to obtain confessions.

Between late 2015 and 2017, three suspects were suddenly identified, arrested, expeditiously tried and sentenced during trials closed to the public shortly before the presidential elections.

Case MNG01

Mongolia: Parliament affiliated to the IPU

Victim(s): Member of the majority

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

Submission of complaint(s): October 2000, March 2001, September 2015

Recent IPU decision: [March 2018](#)

Recent IPU missions: August 2001, [September 2015](#), [September 2017](#)

Recent Committee hearing(s): Hearing with the Mongolian delegation to the 138th IPU Assembly (March 2018)

Recent follow-up

- Communications from the authorities: Letter of the Vice Chairman of the State Great Hural (January 2019); letter of the Minister of Justice received (February 2019); letter of the Prosecutor General (January 2019)
- Communications from the complainant: March 2019
- Communications addressed to the authorities: Letters addressed to the Minister of Justice, the Prosecutor General, the Deputy Speaker and the Permanent Representative in Geneva (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

Following a mission to Mongolia in September 2017, the IPU Committee on the Human Rights of Parliamentarians (the Committee) concluded that justice had not been done and that serious violations of international fair trial standards had taken place. It called for an urgent public and fair retrial.

In December 2017, the Mongolian Government ordered the declassification of most of the files relating to the Zorig case. However, the court verdicts and other important case materials remain classified and inaccessible to the public and to lawyers representing the Zorig family to the present day.

In March 2018, the authorities stated that they would welcome a delegation of the Committee to visit Mongolia again and have subsequently confirmed that the delegation would be able to review some of the declassified materials (in the Mongolian language) subject to a non-disclosure agreement. It was not confirmed that the delegation would be granted permission to visit the convicted persons in prison.

Although a secret investigation is still officially open to identify the mastermind(s), no information is available on what it entails. In April 2018, Ms. Bulgan, his partner, was charged as a suspect formally (for the third time in 20 years) and put under an official travel ban.

The parliamentary authorities have facilitated the transmission of correspondence to the executive and judicial authorities and tasked a working group of members of parliament to make a proposal about the case. The working group's proposal to establish an ad hoc committee to "develop a proposal and conclusion on the proceedings of the Zorig case" has been before the Parliament of Mongolia since 13 September 2018 and has not yet been adopted, according to the Deputy Speaker.

In March 2019, the new Speaker of Parliament and the Minister of Justice publicly acknowledged the deficiencies of the 2016 trials, including the use of torture to extort confessions. The Minister of Justice stated that the persons convicted were innocent and publicly apologized to their families. A special government session was held to discuss the Zorig case and a decision was reportedly taken to make public a video showing two of the convicted persons being tortured. A few intelligence officers have allegedly been detained and are under investigation. The persons convicted were sent to hospital for treatment until further steps can be taken towards their release. The Speaker opened the parliamentary session asking for the adoption of the draft resolution to form an ad hoc committee on the case.

Philippines



Saturnino Ocampo

PHI02 - Saturnino Ocampo

PHI04 - Teodoro Casiño

PHI05 - Liza Maza

PHI06 - Rafael Mariano

Alleged human rights violations:

- ✓ Arbitrary arrest and detention (1.6);
- ✓ Lack of due process at the investigation stage (1.8.1)
- ✓ Failure to respect parliamentary immunity (2.4.3)

Summary of the case

The persons concerned were elected to the House of Representatives in May 2007 under the Philippine party-list system, which is designed to ensure the representation of underprivileged groups in parliament. In the May 2010 parliamentary elections, Mr. Ocampo and Ms. Maza stood for the Senate but were not re-elected, whereas Mr. Casiño and Mr. Mariano were. Since the 2013 elections, the persons concerned no longer occupied parliamentary posts.

All four victims claim to have been subjected to continuous harassment since May 2007, due to their opposition to the policies of the President of the Philippines at the time, Ms. Gloria Macapagal Arroyo. The rebellion charges brought against them in February 2006 were dismissed with final effect by the Supreme Court on 2 July 2007, and the writ of amparo case against Mr. Ocampo was also dismissed in February 2014. The following further charges are currently pending:

- Mr. Ocampo, charged for multiple murder (Leyte Murder Case). In February 2014, Mr. Ocampo's petition with the Supreme Court to dismiss the case was rejected. The Supreme Court ruled that the trial against him should proceed. A subsequent omnibus motion by Mr. Ocampo to quash more recent information brought forward by the

Case PHL-COLL-01

Philippines: Parliament affiliated to the IPU

Victim(s): Opposition members of parliament (Three men and one woman)

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

Submission of complaint(s): March and April 2006

Recent IPU decision: [April 2015](#)

IPU mission: [April 2007](#)

Recent Committee hearings: Hearing with the Filipino delegation at the 130th IPU Assembly (April 2017)

Recent follow-up

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: January 2019

IPU technical assistance: No

Last report update: March 2019 ■

prosecution was dismissed by the Regional Trial Court and is currently pending with the Court of Appeals. Mr. Ocampo's arraignment took place on 7 May 2015. The pretrial hearing started on 19 October 2015 and hearings are ongoing. Mr. Ocampo was granted bail;

- Mr. Ocampo, charged with murder in a related case in Leyte - the case is still pending before the Hilongos Regional Trial Court in Leyte;
- Mr. Ocampo, Ms. Maza, Mr. Casiño and Mr. Mariano, charged with murder in December 2006 (Nueva Ecija case). On 8 August 2018, the case against them was dismissed for lack of probable cause;
- At its 139th Committee session in October 2012, the Committee heard testimony from a member of the Philippines House of Representatives who, citing the then Secretary of Justice, indicated that all pending cases had been – or were in the immediate process of being – dismissed. However, these comments were denied by the then Secretary of Justice.

Philippines



Philippine Senator Leila de Lima is escorted by police after her arrest at the Senate in Manila on 24 February 2017 © Ted Aljibe/AFP

PHL08 – Leila de Lima

Alleged human rights violations:

- ✓ Threats, acts of intimidation (1.5)
- ✓ Arbitrary arrest and detention (1.6)
- ✓ Lack of due process in proceedings against parliamentarians (1.8)
- ✓ Violation of freedom of opinion and expression (2.1)

Summary of the case

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

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign to gain a seat in the Senate in the elections of May 2016, in which she was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she initiated an inquiry into the killings of thousands of alleged drug users and drug dealers alleged to have taken place since President Duterte took office in June 2016. Since the start of her term as senator, she has been subjected to widespread intimidation and denigration, including by President Duterte directly.

Senator de Lima was arrested and detained on 24 February 2017 on the basis of accusations that she had received drug money to finance her senatorial campaign. The charges, in three different cases, were brought in the wake of an inquiry by the House of Representatives into drug trading in New Bilibid Prison and Senator de Lima's

Case PHL08

Philippines: Parliament affiliated to the IPU

Victim(s): Female opposition member of parliament

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

Submission of complaint(s): September 2016

Recent IPU decision: [October 2018](#)

IPU mission: [May 2017](#)

Recent Committee hearing(s): - - -

Recent follow-up

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: Meeting at the IPU Secretariat (March 2019)
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: January 2019

IPU technical assistance: No

Last report update: **March 2019** ■

responsibility in that regard when she was Secretary of Justice. The House inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings.

On 17 April 2018, the Supreme Court announced that it had denied Senator de Lima's motion for reconsideration of its decision of October 2016 confirming the validity of the arrest and the jurisdiction of the Regional Trial Court in the matters at hand.

On 27 July and 10 August 2018, Senator de Lima was arraigned in two of the three cases that are now before Branches 205 and 256 of the Regional Trial Court (RTC) – Muntinlupa City. Hearings to present prosecution witnesses in the two cases before Branch 205, mostly convicted drug traffickers, have been scheduled until the end of May 2020, with hearings in each case scheduled to take place twice a month on average.

A mission of the IPU Committee on the Human Rights of Parliamentarians to the Philippines in May 2017 concluded that there was no evidence to justify the criminal cases against Senator de Lima. Since then, the IPU has called for Senator de Lima's release and for the legal proceedings against her to be abandoned should serious evidence not be forthcoming soon.

Although Senator de Lima remains very politically active from detention and receives newspapers, journals and books, she has no access to the Internet, a computer, TV, radio or to an air-conditioning unit, despite a doctor's order. The Director General of the Philippine National Police (PNP) has denied her request to use electronic gadgets and have an air-conditioning unit installed, in compliance with the recommendation of the Director of the PNP General Hospital.

Requests from her defence counsel to the courts that Senator de Lima be granted legislative furlough have remained unanswered.

On 30 November 2018, the UN Working Group on Arbitrary Detention concluded that Senator de Lima's detention was arbitrary and that the appropriate measure would be to release her immediately.

Philippines



Senator Trillanes arrives at the Senate building in Manila on 25 September 2018. Senator Trillanes, a vocal critic of President Duterte, was arrested but posted bail in proceedings that the lawmaker decried as a "failure of democracy". | NOEL CELIS / AFP

PHL09 – Antonio Trillanes

Alleged human rights violations:

- ✓ Arbitrary arrest and detention (1.6)
- ✓ Lack of due process at the investigation stage (1.8.1)
- ✓ Violation of freedom of opinion and expression (2.1)

Summary of the case

In July 2003, the then Navy Lieutenant Antonio Trillanes was arrested and charged with staging a coup d'état for his participation in what is known as the "Oakwood Mutiny", which took place in July 2003, when more than 300 soldiers took over the Oakwood Premier Hotel in Makati to make known their grievances over bribery and corruption within the army. While in detention, he was allowed to stand in the Senate elections held in May 2007. He was duly elected to the Senate, having received the eleventh highest number of votes. In November 2007, he led another uprising, after walking out of a court hearing and subsequently occupying the Peninsula Hotel in Manila, reportedly calling for the ousting of the then President, Ms. Gloria Macapagal-Arroyo.

In November 2010, President Benigno Aquino III issued Proclamation No. 75, which was approved by both houses of Congress, regarding an amnesty for Senator Trillanes and others for their participation in these events. Senator Trillanes' release was finalized in January 2011, when he applied for and was subsequently granted amnesty under the above-mentioned proclamation. In September 2011, the Makati Regional Trial Court (RTC) Branches 148 and 150 therefore dismissed the coup d'état and rebellion charges that were pending against Senator Trillanes.

Case PHL09

Philippines: Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint(s): September 2018

Recent IPU decision: [October 2018](#)

IPU mission: - - -

Recent Committee hearings: - - -

Recent follow-up

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: Meeting at IPU Headquarters (March 2019)
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

However, on 31 August 2018, President Duterte, through Proclamation No. 572, decided that Senator Trillanes had not fulfilled the amnesty conditions and ordered his arrest. Senator Trillanes sought protective custody in the Senate until 25 September 2018, when RTC Branch 150, which had dealt with the original rebellion charges, issued a warrant for his arrest, basically reviving those charges. Senator Trillanes has challenged this decision before the Court of Appeal, where the matter is pending. The police subsequently escorted Senator Trillanes out of the Senate building. He was released on bail that same day in this case. On 22 October 2018, RTC Branch 148, which had handled the original coup d'état case, dismissed the motion from the Department of Justice to issue an arrest warrant against Senator Trillanes, saying that the same court had already dismissed those charges in September 2011 and that that decision "has become final and executory". The Department of Justice has challenged this decision before the Court of Appeal, where the matter is pending.

The complainant claims that Senator Trillanes had fulfilled all the conditions for amnesty at the time. He has presented witnesses and documentary evidence to show that he completed and submitted the application form for amnesty and admitted his guilt on the relevant part of the form. The complainant points out that not all applicants have a copy of their application forms because they were given only one copy of the form, which they filled out and submitted to the Department of National Defence (DND) during the day of their application. In this regard, the Defence Secretary has publicly stated that all amnesty applications are missing from their files.

According to the complainant, President Duterte's Proclamation No. 572 is politically motivated and comes solely in response to Senator Trillanes' vocal opposition to the current administration. Senator Trillanes has challenged the constitutionality of Proclamation No. 572.

Turkey



Demonstrators hold pictures of Figen Yüksekdağ during the trial in front of the court in Ankara on 13 April 2017 © Adem Altan/AFP

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|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yıldırım (Ms.) | TUR-101 - Behçet Yıldırım |
| TUR-70 - Selma Irmak (Ms.) | TUR-102 - Berdan Öztürk |
| TUR-71 - Faysal Sariyıldız | TUR-103 - Dengir Mir Mehmet Fırat |
| TUR-72 - İbrahim Ayhan ¹ | TUR-104 - Erdal Ataş |
| TUR-73 - Kemal Aktas | TUR-105 - Erol Dora |
| TUR-75 - Bedia Özgökçe Ertan (Ms.) | TUR-106 - Ertuğrul Kürkcü |
| TUR-76 - Besime Konca (Ms.) | TUR-107 - Ferhat Encü |
| TUR-77 - Burcu Çelik Özkan (Ms.) | TUR-108 - Hişyar Özsoy |
| TUR-78 - Çağlar Demirel (Ms.) | TUR-109 - İdris Baluken |
| TUR-79 - Dilek Öcalan (Ms.) | TUR-110 - İmam Taşçier |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-111 - Kadri Yıldırım |
| TUR-81 - Feleknaş Uca (Ms.) | TUR-112 - Lezgin Botan |
| TUR-82 - Figen Yüksekdağ (Ms.) | TUR-113 - Mehmet Ali Aslan |
| TUR-83 - Filiz Kerestecioğlu (Ms.) | TUR-114 - Mehmet Emin Adıyaman |
| TUR-84 - Hüda Kaya (Ms.) | TUR-115 - Nadir Yıldırım |
| TUR-85 - Leyla Birlik (Ms.) | TUR-116 - Nihat Akdoğan |
| TUR-86 - Leyla Zana (Ms.) | TUR-117 - Nimetullah Erdoğan |
| TUR-87 - Meral Daniş Beştaş (Ms.) | TUR-118 - Osman Baydemir |
| TUR-88 - Mizgin İrgat (Ms.) | TUR-119 - Selahattin Demirtaş |
| TUR-89 - Nursel Aydoğan (Ms.) | TUR-120 - Sirri Süreyya Önder |
| TUR-90 - Pervin Buldan (Ms.) | TUR-121 - Ziya Pir |
| TUR-91 - Saadet Becerikli (Ms.) | TUR-122 - Mithat Sancar |
| TUR-92 - Sibel Yiğitalp (Ms.) | TUR-123 - Mahmut Toğrul |
| TUR-93 - Tuğba Hezer Öztürk (Ms.) | TUR-124 - Aycan Irmez (Ms.) |
| TUR-94 - Abdullah Zeydan | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-95 - Adem Geveri | TUR-126 - Garo Paylan |
| TUR-96 - Ahmet Yıldırım | TUR-128 - Aysel Tuğluk (Ms.) |
| TUR-97 - Ali Atalan | TUR-129 - Sebahat Tuncel (Ms.) |
| TUR-98 - Alican Önlü | TUR-130 - Leyla Guven (Ms.) |
| TUR-99 - Altan Tan | TUR-131 - Ayşe Sürücü (Ms.) |
| TUR-100 - Ayhan Bilgen | |

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Mr. Ayhan died of a heart attack in September 2018.

Alleged human rights violations:

- ✓ Failure to respect parliamentary immunity (2.4.3)
- ✓ Lack of due process at the investigation stage (1.8.1)
- ✓ Lack of fair trial proceedings (1.8.2) and excessive delays (1.8.3)
- ✓ Violation of freedom of opinion and expression (2.1)
- ✓ Violation of freedom of assembly and association (2.2)
- ✓ Arbitrary arrest and detention (1.6)²
- ✓ Torture, ill-treatment and other acts of violence (1.4)³
- ✓ Abusive revocation or suspension of the parliamentary mandate (2.4.2)⁴

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 15 December 2015, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. Hundreds of trial proceedings are ongoing against HDP parliamentarians, and former parliamentarians, throughout Turkey. Some of them also continue to face older charges in relation to the Kurdish Communities Union (KCK) first-instance trial that has been ongoing for eight years, while others face more recent charges. In these cases, their parliamentary immunity has allegedly not been lifted.

As of January 2019, nine former members of parliament and current HDP parliamentarian, Ms. Güven, continued to be held in detention under restrictive conditions applicable to terrorism suspects. Ms. Güven has been on hunger strike since 7 November 2018 and was in a life-threatening situation in January 2019 according to the complainant. Turkish courts delivered around 10 new prison sentences against former and current members of parliament. Parliament revoked at least nine of their mandates.

According to the complainant, the charges against HDP members of parliament are groundless and violate their rights to freedom of expression, 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 their political party programme. Such activities include mediating between the Kurdistan Workers Party (PKK) and the Turkish Government as part of the peace process between 2013 and 2015, advocating publicly in favour of political autonomy, and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Turkey and at the border with Syria (including denouncing the crimes committed by the Turkish security forces in that context). The complainant alleges that such statements, rallies and activities did not constitute any offence, and that they fall under the clear scope and protection of the fundamental rights of members of parliament.

Case TUR-COLL-02

Turkey: Parliament affiliated to the IPU

Victim(s): 61 individuals (18 parliamentarians and 43 former members of parliament, all members of the opposition (34 men and 27 women)

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

Submission of complaint(s): June 2016

Recent IPU decision: [October 2018](#)

IPU mission: [February 2014](#)

Recent Committee hearing(s): Hearing with the Turkish delegation and the complainant at the 140th IPU Assembly (April 2019)

Recent follow-up

- Communication from the authorities: Letters from the President of the Turkish IPU Group; observations of the authorities to the Committee case report (March, April 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter to the President of the Turkish IPU Group (March 2019)
- Communication addressed to the complainant: March 2019

IPU technical assistance: No

Last report update: March 2019 ■

² Concerns only the members of parliament placed in detention, as listed in the case report (section on detention).

³ Concerns only three male members of parliament (Mr. Adiyaman - TK/114; Mr. Behçet Yıldırım - TK/101; Mr. Mahmut Toğrul - TK/123) and three women members of parliament (Ms. Feleknaş Uca - TK/81, Ms. Besime Konca - TK/76 and Ms. Sibel Yığıtalp - TK/92).

⁴ Concerns 11 members of parliament (Ms. Selma Irmak - TK/70; Mr. Faysal Sariyıldız - TK/71; Mr. İbrahim Ayhan - TK/72; Ms. Besime Konca - TK/76; Ms. Figen Yüksekdağ - TK/82; Ms. Leyla Birlik - TK/85; Ms. Nursel Aydoğan - TK/89; Ms. Tuğba Hezer Öztürk - TK/93; Mr. Ahmet Yıldırım - TK/96; Mr. Ferhat Encü - TK/107; and Mr. Osman Baydemir - TK/118).

The most prominent cases concern the two former co-chairs of the HDP, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ, who remain in detention. On 20 November 2018, the European Court of Human Rights ordered the immediate release of Mr. Demirtaş after finding violations of his fundamental rights. The Court concluded that the extensions of Mr. Demirtaş' pretrial detention and his subsequent inability to take part in parliamentary activities "constituted an unjustified interference with the free expression of the opinion of the people and with his right to be elected and to sit in parliament" and that it had "pursued the predominant ulterior purpose of stifling pluralism and limiting freedom of political debate". The Turkish authorities have not implemented the Court's decision.

Ms. Yüksekdağ was sentenced in a number of cases and continues to face multiple charges and proceedings. She was deprived of her HDP membership and banned from exercising any political activities pursuant to a court conviction. The IPU trial observer submitted her final report on the hearings she attended in Ms. Yüksekdağ' s trial from September 2017 until September 2018 (and one hearing in the case of Mr. Demirtaş in December 2017). Having reviewed a translation of the incriminated statements made by Ms. Yüksekdağ, the IPU trial observer found that the prosecution's evidence put forward against Ms. Yüksekdağ "appears to fall squarely within her legitimate right to express her opinions, discharging her duty to draw attention to the concerns of those she represents". The report concluded that the prospect for Ms. Yüksekdağ – and Mr. Demirtaş - to receive a fair trial was remote and that the political nature of both prosecutions was evident. The observer recommended that the IPU stands in solidarity with the former members of parliament and remains informed by continuing to observe the proceedings as much as possible.

A report produced by a team of legal consultants mandated by the IPU to review 12 court decisions issued against HDP members reached similar conclusions. The report concluded that the judiciary in Turkey, from the first instance courts to the Constitutional Court level, completely disregarded the case law of the European Court of Human Rights and the main judgement 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 crimes with which the members of parliament were charged. The review found that a presumption of guilt was used by the courts and that harsher restrictions and punishment were applied to the members of parliament because of their particular duties and influence contrary to the special protection afforded under international law to political expression by public and political figures. The review further found that the interpretation of anti-terror laws by Turkish courts was completely arbitrary and unforeseeable. Similar speeches and acts were interpreted completely differently by different courts or, even in the same decision by the same court. The report concluded that this could only be explained by political influence over the judiciary rather than judicial interpretation methods given the broader context.

The Turkish authorities firmly deny all these allegations. They have invoked the independence of the judiciary and the need to respond to security/terrorism threats and legislation adopted under the state of emergency to justify the legality of the measures taken. They have provided detailed information on the "provisional constitutional amendment" made by parliament in relation to parliamentary immunity in May 2016 to prosecute parliamentarians from all parties. They have asserted that there is no "HDP witch-hunt" in Turkey; that women parliamentarians are not specifically targeted; that there is no Kurdish issue in Turkey and no current conflict in south-eastern Turkey; that Turkey is, however, facing a terrorism issue at multiple levels involving the PKK and its "extensions"; that the HDP never publicly denounced the violent activities of the PKK; that its members, including members of parliament, made many statements in support of the PKK and their "extensions"; that they attended funerals of PKK suicide bombers and called for people to take to the streets, which 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 three cases and that, in other cases, domestic remedies have not yet been exhausted; that the independence of the judiciary and the rule of law in Turkey must be respected.

The Turkish authorities have rejected the Committee's request to conduct a mission to Turkey on two occasions on the grounds that it "could negatively affect the judicial process" and was not considered "appropriate". The mission was approved during the 138th IPU Assembly (April 2018, Geneva) on the condition that the delegation would not seek to meet the detained members of parliament or the judicial authorities. In May 2018, however, the Turkish authorities cancelled the Committee's mission following the announcement of early elections in June. In its December 2018 letter, the President of

the Turkish IPU Group confirmed that an IPU delegation was welcome to come to Turkey after the local elections scheduled on 31 March 2019 to meet with the judicial and executive authorities but that prison visits would not be possible.

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