

Côte d'Ivoire

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (Geneva, 29 May 2020)



Alain Lobognon, Twitter

CIV-07 - Alain Lobognon
CIV-08 - Jacques Ehouo
CIV-09 - Guillaume Soro
CIV-10 - Loukimane Camara
CIV-11 - Kando Soumahoro
CIV-12 - Yao Soumaïla
CIV-13 - Soro Kanigui
CIV-14 - Issiaka Fofana
CIV-15 - Bassatigui Fofana
CIV-16 - Mohamed Sess Soukou

Alleged human rights violations

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

A. Summary of the case

This case concerns the situation of several Ivorian members of parliament who have suffered violations of their fundamental rights since 2018 in the exercise of their parliamentary mandate.

In 2018, the investiture as mayor of Mr. Jacques Ehouo, a member of parliament from the Democratic Party of Côte d'Ivoire (PDCI), did not take place immediately following his election because of allegations of corruption and misappropriation of funds that surfaced shortly after his victory. Given that Mr. Ehouo refused to appear at a hearing with the Economic Police, invoking his

Case CIV-COLL-01

Côte d'Ivoire: Parliament affiliated to the IPU

Victims: 10 male opposition members of parliament

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

Submission of complaints: January 2019; February 2020 (CIV-09-CIV-16)

Recent IPU decision: April 2019

IPU mission(s): - - -

Recent Committee hearing: Hearing of the delegation of Côte d'Ivoire at the 140th IPU Assembly in Doha (April 2019)

Recent follow-up:

- Communication from the authorities: Observations from the Government (May 2020)
- Communication from the complainants: May 2020
- Communications addressed to the authorities: Letter addressed to the Minister of Justice and the Speaker of the National Assembly (April 2020)
- Communication addressed to the complainants: May 2020

status as a member of parliament, the Prosecutor wrote to the National Assembly in January 2019 stating that it was only Mr. Ehouo's arrest that was unauthorized when parliament was not in session. In a letter dated 7 January 2019, the parliamentary authorities made clear to the Prosecutor that, as Mr. Ehouo was a member of parliament, he could not be prosecuted without the authorization of the Bureau of the National Assembly, especially given that the latter had been in session at the time the Prosecutor had summoned the member of parliament. Mr. Ehouo eventually attended the hearing on 10 January 2019, following which he was charged by the Prosecutor with misappropriation of public funds, forgery and the use of counterfeit documents, and money laundering.

Mr. Ehouo's case is linked to that of Mr. Alain Lobognon, who had expressed his concern about Mr. Ehouo's situation on social media in January 2019, posting the following tweet: "The National Assembly requested the suspension of proceedings against member of parliament Mr. Jacques Ehouo, under Article 92(3) of the Constitution and Article 45(3) of its Standing Orders. Despite this, the Prosecutor ordered the arrest of our colleague." As a result, Mr. Lobognon was accused of posting material on Twitter that amounted to spreading fake news and causing public disorder, and the Prosecutor issued an arrest warrant against him for an *in flagrante delicto* offence. On 15 January 2019, Mr. Lobognon was taken into custody.

The Bureau of the National Assembly met on 16 January 2019 and decided to request that Mr. Lobognon's custody and the proceedings against both members of parliament be suspended. The Prosecutor is understood to have disregarded this decision, as Mr. Lobognon was sentenced on 29 January 2019 in the court of first instance to a one-year prison term in a trial that his lawyers said showed a lack of fair trial proceedings and was biased. When his case was considered by the court of appeal on 13 February, Mr. Lobognon received a six-month suspended prison sentence. Mr. Lobognon was released and lodged an appeal at the court of cassation. As for Mr. Ehouo, he finally took office as mayor following his investiture on 23 March 2019 after a four-month deadlock. However, it is unclear whether Mr. Ehouo continues to be subject to a judicial investigation in connection with the charges of misappropriation of funds.

In December 2019, the Committee received a new complaint about nine members of the National Assembly, including Mr. Lobognon, who had allegedly been arbitrarily arrested with Mr. Loukimane Camara, Mr. Kando Soumahoro, Mr. Yao Soumaïla and Mr. Soro Kanigui on 23 December 2019. The five members of parliament had been charged with causing public disorder, challenging the authority of the State and spreading fake news, and bringing discredit to state institutions and their operation, all of which amount to an attack on state authority. At the same time, member of parliament and former Speaker of the National Assembly, Mr. Guillaume Soro, was allegedly prevented from returning to Côte d'Ivoire and had an international arrest warrant issued against him for misappropriation of public funds and seeking to challenge the integrity of the State. The other members of parliament – Mr. Issiaka Fofana, Mr. Bassatigui Fofana and Mr. Sess Soukou Mohamed – were reportedly forced into exile following a campaign of political harassment against them because of their political affiliation (members of the opposition) and their support for Mr. Guillaume Soro's movement. The complainants claimed that the three members of parliament would currently be in detention had they not fled the country.

In its communication of 13 May 2020, the Ivorian Government rejected the complainants' allegations, emphasizing that the procedure followed in ordering the detention and arrest of the five members of parliament and the proceedings brought against Mr. Soro were legal. According to the Ivorian authorities, the five members of parliament currently in detention allegedly stated at a press conference held on 23 December 2019 at the headquarters of the *Génération et Peuples Solidaires* (Generations and People in Solidarity – GPS) political movement that the Ivorian airport authorities had prevented Mr. Soro's private aircraft from landing in Côte d'Ivoire and that, as a result, his plane had been diverted to Ghana. According to the authorities, this information was misleading, since it was denied by the National Civil Aviation Authority in a press release in which it stated that an authorization to fly over Ivorian territory and to land at the airport in Abidjan had been granted on 20 December 2019. The authorities have not forwarded a copy of this press release.

With regard to Mr. Soro's case, the Ivorian Government confirmed its involvement in two separate cases, one relating to a destabilization plot planned for imminent execution, as revealed in a sound recording in which Mr. Soro reportedly exposed his plan of attack against state security. According to the authorities, the plot involved recruiting armed individuals from the country to subvert the integrity of the national territory. The Ivorian authorities concluded that there was a direct link between this recording, which apparently dates from 2017, and Mr. Soro's political campaign, the aim of which is to discredit the Republic's institutions. According to the authorities, the plot became increasingly

plausible following the discovery of weapons of war in a lagoon in the township of Assinie. The second case involving Mr. Soro is reportedly the misappropriation of funds following the alleged acquisition in 2007 of a property using public treasury funds, the actual ownership of which has been concealed.

In its communication of 13 May 2020, the Ivorian Government also refuted the complainants' allegations about the state of Mr. Lobognon's health, who it claims is not suffering from a medical condition requiring admission to hospital. However, a medical report written by Mr. Lobognon's doctor on 8 April 2020, and detailing a medical visit that took place on 30 March 2020, indicates that the member of parliament suffers from symptoms related to malaria and is undergoing antimalarial treatment. According to this report, the doctor was prevented from examining Mr. Lobognon on 8 April 2020 after the prison's governor refused him entry in the absence of authorization from the court administration. The complainants also stated that Mr. Lobognon's personal doctor was prevented on three occasions from entering the prison grounds.

Furthermore, the Ivorian Government argued in its communication of 13 May 2020 that the allegations of failure to respect the parliamentary immunity of the members of parliament were totally unfounded, given that they were accused of having actively participated in the first phase of the plot against state security and were prevented from carrying out the second phase of their plan, involving a popular uprising, when the judicial police intervened. For the Ivorian Government, these factors prove that an *in flagrante delicto* offence had taken place, justifying the lack of authorization by the bureaux of the Chambers to which these members of parliament belong. However, the authorities claimed that the immunity of members of parliament no longer posed an obstacle, since a decision to lift it had been taken by the Bureau of the National Assembly on 20 January 2020.

The African Court on Human and Peoples' Rights (AfCHPR), having had the case referred to it by the members of parliament's lawyers on 22 April 2020, implemented interim measures, ordering the suspension of the arrest warrant issued against Mr. Soro, the provisional release of the members of parliament currently in detention, and adherence to the *status quo ante* until the adoption of a decision on the merits of the case. Despite the AfCHPR's ruling, the Ivorian justice system continued examining Mr. Soro's case, who was convicted of misappropriation of funds and sentenced on 28 April 2020 by the Abidjan court of first instance to 20 years' rigorous imprisonment, deprivation of his civil and political rights for a period of five years and a fine of 4.5 billion CFA francs.

The communication sent by the Ivorian authorities on 13 May 2020 included no documents proving the veracity of the statements made, in particular a copy of the ruling issued against Mr. Soro in the money laundering case, a copy of the sound recording mentioned (only extracts were provided), with the date on which it was allegedly recorded, and a copy of the arrest and search warrants. The authorities have provided no information on Mr. Jacques Ehouo's situation.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Declares itself* competent to examine the cases of Mr. Guillaume Soro, Mr. Loukimane Camara, Mr. Kando Soumahoro, Mr. Yao Soumaïla, Mr. Soro Kanigui, Mr. Issiaka Fofana, Mr. Bassatigui Fofana and Mr. Mohamed Sess Souko, considering that the communication: (i) was submitted in due form by a qualified complainant pursuant to section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I to the Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns incumbent members of parliament at the time of the alleged facts; and (iii) concerns allegations of arbitrary arrest and detention, lack of due process at the investigation stage, lack of fair trial proceedings, violation of freedom of opinion and expression, and failure to respect parliamentary immunity, allegations which fall within the competence of the Committee; and *decides* to merge the cases of the eight members of parliament into the present collective case CIV-COLL-01;
2. *Thanks* the Ivorian Government for its correspondence, while *regretting* the lack of response from the parliamentary authorities, even more so as the issue of respect for parliamentary immunity and the fundamental rights of members of the National Assembly directly concerns the latter;

3. *Notes with regret* that Mr. Lobognon's situation has taken a turn for the worse and that four other members of parliament are, like him, in pretrial detention in a court case that does not appear to be based on any material evidence proving their guilt; *notes with concern* that the only evidence against the five members of parliament to justify their arrest and detention consist of statements they made during a press conference, according to which Mr. Soro had been prevented from entering Côte d'Ivoire by air; *also notes* that there is currently no link between the five members of parliament and the alleged insurrection plot, of which Mr. Soro is accused, and that their only connection with Mr. Soro lies in their support for the latter's political movement;
4. *Considers* that five of the nine members of parliament concerned were arbitrarily arrested in the absence of a decision by the Bureau of the National Assembly authorizing their arrest and detention, and that the latter only lifted their parliamentary immunity, and that of Mr. Soro, on 20 January 2020, even though the five members of parliament had already been in detention since 23 December 2019; *also recalls* that this is not Mr. Lobognon's first detention on similar grounds; and *once more invites* the parliamentary authorities to provide their observations on the procedure followed in authorizing the lifting of the parliamentary immunity of the members of parliament in question;
5. *Fails to understand* how the judicial authorities established that the offences alleged to have been committed by the members of parliament, in particular those alleged against Mr. Soro, fell under the offence of *in flagrante delicto* under Article 77 of the Criminal Procedure Code, given that the sound recording constituting the key evidence for the Prosecutor's charges dates back to 2017; and *wishes* to receive further clarifications in this regard from the authorities;
6. *Is concerned* about Mr. Lobognon's state of health and by the prison administration's refusal on three consecutive occasions to authorize his personal doctor to visit him to carry out a medical check-up; and about the fact that the application for a provisional release made by Mr. Lobognon because of his state of health was rejected without valid grounds;
7. *Calls on* the authorities to release Mr. Lobognon and the four other members of parliament, particularly in the context of the current COVID-19 pandemic, which is leaving persons detained in prison and other enclosed places of detention even more vulnerable to the disease; *also wishes* to receive more detailed information on the facts on which all the criminal charges against them are based; *urges* the prison authorities, should Mr. Lobognon not be released immediately, to facilitate his access to his personal doctor so that a medical report can be drawn up as soon as possible; and *wishes* to receive a copy of this report;
8. *Takes note* of Mr. Soro's conviction for the misappropriation of public funds; *notes* that Mr. Soro's lawyers did not appear at trial *in absentia* in order to report irregularities in the procedure followed against their client and expeditious justice; *notes* that the charges against Mr. Soro coincide with the election timetable and the formalization of his candidacy for the presidential elections of October 2020, and that his conviction deprives him of his political and civil rights for five years, thus preventing him from participating in the next presidential elections, all of which are elements contributing to the political nature of Mr. Soro's case; and *wishes* to obtain a copy of the decision of the court of first instance in order to understand on what grounds the sentence was passed against him;
9. *Considers* that the interim measures adopted by the African Court on Human and Peoples' Rights ordering the State of Côte d'Ivoire to suspend proceedings against Mr. Soro and the other members of parliament because of the election timetable, and the risk they run as politicians of being deprived of the enjoyment and exercise of their rights, reinforce the complainants' allegations that the proceedings against these members of parliament are politically motivated;
10. *Takes note* of the lack of information on Mr. Jacques Ehouo's case; and *wishes* to know whether he is still subject to a judicial investigation into corruption offences so as to deal with his case once and for all;
11. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Justice and the complainants, and to any third party likely to be in a position to supply relevant information;
12. *Decides* to continue examining this case.