



INTER-PARLIAMENTARY UNION
126th Assembly and related meetings
Kampala (Uganda), 31 March – 5 April 2012



Governing Council
Item 12(b)

CL/190/12(b)-R.2
Kampala, 5 April 2012

COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

Report of the Committee's delegation on its mission to Cameroon
(24 - 27 may 2011)

▶ **CASE No. CM/01 - DIEUDONNÉ AMBASSA ZANG**

SUMMARY

	<u>Page</u>
A. Origin and conduct of the mission	2
B. Outline of the case and concerns of the Committee	3
C. Information gathered during the mission	4
D. General observations	10
E. Observations supplied by the authorities	13

*
* *
*

A. ORIGIN AND CONDUCT OF THE MISSION

The Committee on the Human Rights of Parliamentarians was seized of the case of Mr. Dieudonné Ambassa Zang in December 2009 and declared it admissible at its 128th session (January 2010), asking the Secretary General to open a preliminary investigation. It was in July 2010 and subsequently in October 2010, on the occasion of a conversation with the Speaker of the National Assembly, that the Committee received official information on the case. However, invoking the principle of the separation of powers, the parliamentary authorities declared themselves incompetent to supply information on the judicial proceedings brought against the parliamentarian concerned. The Committee thus found itself unable to clarify particular aspects and therefore raised the possibility of an on-site mission with the Cameroonian delegation to the 124th IPU Assembly (Panama City, April 2011). The delegation having welcomed the proposal, the Committee asked the Secretary General to take the necessary steps to organize the mission, which he entrusted with gathering on the spot as much detailed information as possible on all aspects of the case. It asked its titular member for Africa, Mr. Kassoum Tapo, a member of the National Assembly of Mali, and the Honorary Secretary General of the IPU, Mr. Pierre Cornillon, to carry out the mission, accompanied by the Committee Secretary, Ms. Ingeborg Schwarz.

Several dates were proposed for the mission and the period from 24 to 27 May was that finally settled on by the authorities, which was when the mission took place.

The mission met the following persons:

(a) Parliamentary authorities

- Mr. Cavaye Yeguie Djibril, Speaker of the National Assembly
- Mr. Hilarion Etong, Deputy Speaker of the National Assembly
- Ms. Josephine Fotso, member of the National Assembly
- Mr. Victor Yene Ossomba, Secretary General of the National Assembly

(b) Governmental authorities

- Mr. Amadou Ali, Deputy Prime Minister, Minister of Justice, Keeper of the Seals
- Mr. Lazare Essimi Menye, Minister of Finance
- Mr. Siegfried David Etame Massoma, Minister Delegate at the Presidency of the Republic in charge of the Supreme State Audit Office (CONSUPE)
- Mr. M. Peter Agbor Tabi, Minister, Deputy Secretary General of the Presidency of the Republic
- The Deputy Secretary General of the Presidency in charge of Economic Affairs
- Mr. Mbarga Nguélé Martin, Delegate General for National Security
- The Director of the Judicial Police

(c) Judicial authorities

- The Prosecutor General (*Procureur général*) at the Court of Appeal of the Centre Region
- Mr. Ntamack Jean fils Kléber, Attorney General of the Republic (*Procureur général de la République*)

(d) Other persons

- The lawful wife of Mr. Dieudonné Ambassa Zang, his two sons and his younger brother, Mr. Owona Zang Semplice
- Mr. Eba'a Manga, lawyer of Mr. Ambassa Zang

The mission thanks the authorities for making themselves so readily available and for their cooperation. It thanks in particular the Speaker of the National Assembly for arranging the contacts and is very grateful to him for the welcome extended to it.

B. OUTLINE OF THE CASE AND CONCERNS OF THE COMMITTEE

Mr. Ambassa Zang was Minister of Public Works from August 2002 to December 2004 before being elected a member of the National Assembly in July 2007, on the ticket of the Cameroon People's Democratic Movement (CPDM). Having been presented on 10 July 2009 with an application for the lifting of Mr. Ambassa Zang's parliamentary immunity, the Bureau of the National Assembly met on 14 July 2009 to examine it. The application was prompted by an accusation of embezzlement and complicity in the misappropriation of public funds, amounting to several billion CFA francs, and of bribery based on his management when he was Minister of Public Works. According to the application, a judicial investigation was opened on 15 April 2009. However, examination of the application was postponed for the purpose of closer examination before a decision. On 7 August 2009, the Bureau reconvened and on that occasion lifted the parliamentary immunity of Mr. Ambassa Zang to enable him to defend himself in court. At that time he was abroad, having left Cameroon on 12 July for health reasons, according to the source.

The accusations laid against Mr. Ambassa Zang are based on an investigation conducted from March to June 2006 by the Supreme State Audit Office (CONSUPE) of his management of the Wouri Bridge rehabilitation works, followed by an audit of his management in the 2003 and 2004 fiscal years. On 12 October 2006, the Minister Delegate to the Presidency in charge of CONSUPE sent a letter to the Minister of State, Secretary General of the Presidency of the Republic, containing the accusations laid against Mr. Ambassa Zang, which accusations are reportedly also contained in the letter referring the matter to the Minister of Justice from the Minister Delegate at the Presidency in charge of CONSUPE. According to the source, the Minister of Justice submitted the case to the Prosecutor General (*Procureur général*), who instructed the subsidiary economic investigation service of the judicial police to conduct the preliminary investigation. That service, after hearing almost all the persons involved in the case, reportedly referred the entire file back to CONSUPE on the grounds that it would be difficult to exploit on account of numerous inconsistencies and untruths.

The source affirms that the accusations fell primarily within the competence of the Budgetary and Financial Discipline Council (CDBF), to which the matter should have been referred.

The source affirms that Mr. Ambassa Zang was unable to exercise his right to defence. A defence file that he had prepared for the Bureau of the National Assembly was apparently not taken into consideration. Reportedly, the first audit of the Wouri Bridge rehabilitation works was conducted without his being invited to justify himself and only on 22 June 2007 did the mission head submit to him a request for information, to which he replied; however, his arguments were not taken into consideration. Likewise, he apparently never received any reply to the letters he addressed to the Prime Minister and to the Speaker of the National Assembly. The source affirms that the proceedings brought against Mr. Ambassa Zang are politically motivated, and it cites in this respect, among others, the Chairman of the majority group, Mr. Ndongo Essomba: at a meeting with those in charge of the "regional relays" of the CPDM parliamentary group, he reportedly told them of an audience that the Head of State had granted him on 12 June 2009, during which the President, while congratulating him on the vitality and work of the CPDM deputies, apparently deplored "some excesses". Mr. Ambassa Zang had indeed harshly criticized the Minister of Finance and the budget he had prepared for 2009.

The Committee's prime concerns are the failure to respect the rights of the defence at all stages of the proceedings, including the lifting of Mr. Ambassa Zang's parliamentary immunity, and the seeming vagueness of the judicial proceedings. The Committee emphasized that strict respect of the rights of the defence and of an adversarial process was essential to any, particularly criminal, proceedings and that any infringement of those rights discredited the proceedings in question and cast doubt on their soundness. It was also worried about observance of the rules concerning the payment of parliamentary allowances and microcredits to Mr. Ambassa Zang. He had not been paid his parliamentary allowances since March 2010 and had not received the microcredit reimbursements due to him for the works he had had carried out in 2010.

C. INFORMATION GATHERED DURING THE MISSION

1. Questions relating to the parliamentary status of Mr. Ambassa Zang

1.1. Lifting of parliamentary immunity

1.1.1. It should be noted straight away that the authorities all emphasized that, except in flagrante delicto cases, no deputy may be interrogated or questioned in any criminal, administrative or other matter unless his or her parliamentary immunity has been lifted. The lifting of their parliamentary immunity enables the deputies concerned to defend themselves and be available to the courts. In some cases, parliamentarians had themselves asked for their immunity to be lifted for the very purpose of defending themselves against ill-intentioned accusations. Consequently, to enable Deputy Ambassa Zang to be heard on the subject of the accusations levelled at him, the National Assembly had to lift his parliamentary immunity.

1.1.2. The Speaker of the National Assembly said that, after three years of investigation by the Supreme State Audit Office (CONSUPE), the file of Mr. Ambassa Zang had been referred to the courts and that, acting through the Minister of Justice, the Attorney General (*Procureur de la République*) had submitted to the Assembly a request to lift the parliamentary immunity of the person concerned. At the time the file was received by the Bureau of the Assembly, he himself – the Speaker – was in his village and he called a meeting of the Bureau. The file had reached him on a Friday and Mr. Ambassa Zang left Cameroon on the following Sunday. At the time he did not know that Mr. Ambassa Zang had left. Had he remained in Cameroon, the Bureau would have been able to hear him to “sort out the situation”. The Deputy Speaker, for his part, also emphasized that it had indeed been the absence of Mr. Ambassa Zang that had been the reason for the lack of any adversarial procedure; in general, the Assembly or the Bureau summoned the parliamentarians concerned to hear them, which had not been possible in the case precisely because of the absence of Mr. Ambassa Zang; had he been there, he would of course have been heard. The Speaker confirmed that the request had been examined by the Bureau at a first meeting held on 14 July 2009, and that its consideration had been adjourned to enable the members to study the matter and resumed at a second meeting on 7 August, at the close of which the decision to lift his immunity had been taken.

1.1.3. When it asked about the fact that Mr. Ambassa Zang had sent a defence memorandum to some members of the Bureau, including the Speaker of the National Assembly, the mission was told that referring the matter to the Speaker did not suffice; the Bureau of the National Assembly had to be seized of it. It should be noted in this respect that, just before its departure for Cameroon, the mission received a copy of a defence note that Mr. Ambassa Zang had addressed on 3 August 2009 to all the members of the Bureau. The note had been delivered to the Bureau by his family. The record of the Bureau’s meeting makes no reference to that note, which does not seem to have been included in the documentation before the Bureau.

1.1.4. Ms Josephine Fotso insisted on the fact that the judicial authorities had submitted to the Bureau of the National Assembly a detailed file that all the Bureau members had consulted to be able to pronounce on the soundness of the accusations. There was solidarity with Mr. Ambassa Zang, and all the members of the Bureau were conscious of their responsibility vis-à-vis their colleague. Furthermore, she stated that the Speaker of the Assembly was known as someone who protected all the Assembly members. Mr. Esseba, the Administrative Secretary, added that the Speaker had done all he should have done and had asked Mr. Ambassa Zang to attend, unfortunately in vain.

1.1.5. Asked why the Bureau had been called upon so rapidly to rule on the application to have his immunity lifted without awaiting the Assembly’s next plenary session, particularly since at the first sitting of the Bureau its members had voiced their reluctance to come to a decision, the Deputy Speaker emphasized that the Bureau had to rule on the application in the period between sessions and could not await the subsequent session of the Assembly; had it done so, it would have been immediately accused of connivance with the parliamentarian in question. Furthermore, the Bureau could be convened very fast by means of SMS or mobile telephone messages.

1.1.6. Several authorities, including the parliamentary authorities, observed that Mr. Ambassa Zang was not the only parliamentarian whose immunity had been lifted. The cases of three other parliamentarians were mentioned in this respect. All had appeared in court free; one, accused of murder, had been acquitted and the other two found guilty and sentenced to prison terms. More generally, the parliamentary authorities insisted on the point that the National Assembly had to be prevented from becoming a refuge for persons fleeing justice.

1.1.7. The Speaker of the National Assembly said that the Assembly could deal with a case only as long as the matter had not been referred to the courts; once it was in the courts the Assembly could do nothing further. Consequently, once Mr. Ambassa Zang's immunity had been lifted, the Assembly was no longer competent to attend to the remainder of the proceedings: "We have not interfered in the rest of the judicial case and we are letting justice do its work".

1.2. Payment of the parliamentary allowances

1.2.1. The Speaker of the National Assembly first acknowledged that, as provided for in Article 80 of the Standing Orders of the National Assembly,¹ the Assembly had to pay half of the allowances due to deputies in the event of unjustified absence from three sittings. After verification of the text following the IPU's requests for information, it transpired that Mr. Ambassa Zang had not been sent the call for explanations provided for in the article. After a meeting of the Bureau, the demand was sent him but he had not replied. The Assembly nevertheless acknowledged its obligation to pay him half of his parliamentary allowance; a payment had therefore been made into Mr. Ambassa Zang's bank account, which the mission could itself check before leaving. Before its departure, the mission was informed that a certain sum had indeed been paid into Mr. Ambassa Zang's but it was unable to ascertain to what it corresponded exactly.

1.2.2. The Speaker of the National Assembly specified that he had asked Mr. Ambassa Zang for the medical certificates justifying his absence, but he had failed to supply them.

1.2.3. Regarding the blocking of the account of Mr. Ambassa Zang mentioned by the Cameroonian delegation to the 124th IPU Assembly, the Speaker of the National Assembly stated that he knew nothing of the matter and that it was not the Assembly that had blocked the account. In general, provisional measures of that kind were taken by the Prosecutor General (*Procureur général*).

1.3. Question of payment of the microcredit appropriation for 2010

1.3.1. The Speaker of the National Assembly confirmed that, as provided for in the Standing Orders, a commission including a treasurer had been sent on-site to check that the projects that Mr. Ambassa Zang said he had implemented in his constituency had indeed been carried out. The delegation had noted that such was the case and the National Assembly had therefore paid the microcredit amount. Proof of that payment was going to be made available to the mission.

1.3.2. On visiting the family of Mr. Ambassa Zang, the mission learnt that the entrepreneurs who had carried out the projects were ever more insistently demanding to be paid; however, the family lacked the necessary funds and had no information about any payment of the appropriation.

1.3.3. When the mission raised that question during its last meeting with the Speaker, it learnt that the amount in question had in fact been paid to Mr. Ambassa Zang's alternate. Upon verification by the family with the alternate, the mission learnt before its departure that the sum had been paid not to the alternate but to another person, seemingly the fellow candidate of Mr. Ambassa Zang. It was unable to obtain any official information on the subject or evidence of the payment, or any information concerning the use that might have been made of the payment.

¹ Article 80 stipulates that, when a Deputy in the National Assembly is absent from three consecutive plenary sittings without legitimate cause accepted by the Assembly, he/she shall forfeit half of his/her parliamentary allowance for the duration of such absence and for the two months following resumption of duties; the Bureau must nevertheless invite the member concerned to supply all explanations or justifications that he/she may deem relevant and must notify him/her of a time limit for the purpose; only after examination of the explanations or justifications supplied or, failing that, upon the expiry of the time limit set can the pecuniary penalty properly be imposed by the Bureau of the Assembly.

2. Judicial proceedings

2.1. Institution of the proceedings (audit mission)

The authorities gave the following explanations about the reasons for the audit of Mr. Ambassa Zang's management as Minister of Public Works: the Speaker of the National Assembly explained that a complaint by the French Development Agency (AFD), the funding source for the rehabilitation of the Wouri Bridge, had originated the audit; the Prosecutor General (*Procureur général*) said that State companies, ministries and other State structures managing public funds were subjected to annual verification by the Supreme State Audit Office (CONSUPE), which reviewed the State's management. The Minister of Justice associated the audit of Mr. Ambassa Zang's management with the fight against corruption that the Cameroonian State had initiated in 2005. The Minister Delegate at the Presidency in charge of CONSUPE said that such verifications were habitually conducted at the request of the Head of State, as in the present case.

2.2. Conduct of the proceedings

(a) The audit phase

The authorities stated on several occasions that the "Zang affair" was an old one and that Mr. Ambassa Zang knew of the accusations made against him.² The Minister Delegate at the Presidency in charge of CONSUPE told the mission about the conduct of the audit: a mobile mission had been sent by CONSUPE to check the management by Mr. Ambassa Zang of the Wouri Bridge rehabilitation and his management of the public budget. During that verification mission a number of irregularities showed up regarding fund management, the award of public contracts, the choice of companies and the management of credits. The auditors had in June 2007 put in a request to him for particulars and information to which he had replied. The replies of the managers audited enabled the auditors to reach their final position but did not bind them. The stages were therefore the following: (i) investigation phase; (ii) observation and request for information; (iii) reply of the person concerned; and (iv) conclusions. The latter were not communicated to the managers audited.

(b) Information given by the Minister of Finance about specific accusations made against Mr. Ambassa Zang

With regard to the accusation of having intentionally assigned credits within one or two months of the close of the budgetary periods, the source upheld that that was due to the fact that, in Cameroon, the investment budget was never operational before the end of March, which implied a spate of delays affecting all operations, notably on account of administrative slowness. On that point the Minister of Finance said that the sequence of budgetary operations took time but what was involved was not "delays or administrative slowness" but normal implementation periods.

On the subject of the responsibility of the Minister of Finance in decisions with financial implications (the execution of such decisions being subject to clearance from the comptroller seconded to the ministry concerned), the Minister specified that in the case of a project like that of the Wouri Bridge, once the project, the dossier for which is prepared by the Minister of Public Works, has been validated by the National Assembly, the role of the Minister of Finance and his representative within the Ministry is simply to check, for a given expenditure, that the concept of the expenditure indeed features in the approved project and that the resources are on hand to make the payment. In no case is the Ministry of Finance judge of the advisability of the expenditure. With regard to salaries, the Minister said that their payment was often refused for want of a regulation or because of failure to comply with a regulation.

(c) Decision to choose criminal proceedings

The Minister Delegate at the Presidency in charge of CONSUPE said that the final audit report was submitted to the Head of State. According to the Minister of Justice, after examination by the technical and economic services at the Presidency, several options are possible: closure of

² As will be seen below (paragraph 2.3 (a) (ii)), an audit of the management of Mr. Ambassa Zang had been conducted in 2006 without his being informed of it officially; he learnt of its existence confidentially.

the case, taking of disciplinary action, transmission to the Budget and Finance Disciplinary Council for mismanagement or transmission of the file to the judicial authority to prepare prosecution, or both. In the present case legal proceedings were chosen. The Minister Delegate at the Presidency in charge of CONSUPE observed that the choice did not fall within his purview. For his part, the Deputy Secretary General of the Presidency of the Republic said that the Head of State had opted for legal proceedings on account of the misuse of public funds and the need, highlighted by the international community, to put public finances on a sound footing. The file had therefore been transmitted to the Minister of Justice. A new thorough examination had been carried out at that level and, after the lifting of Mr. Ambassa Zang's parliamentary immunity, the file had been handed over to the Prosecutor General (*Procureur général*) of the Court of Appeal for further proceedings.

(d) Present stage of the proceedings

The Prosecutor General (*Procureur général*) said that the file had been transmitted to the judicial police and that the preliminary investigation was still under way. The file would, he added, be transmitted to the examining magistrate once the investigation had been completed, namely "when the conclusion is reached of his [Ambassa Zang's] guilt". However, the Director of the Judicial Police said that the preliminary investigation had been completed and that the file had been transmitted to the Prosecutor General. The special information sheet supplied to the mission by the Delegate General for National Security, dated 25 May 2011, specifies in this respect that the investigation conducted under the constant supervision of the Attorney General (*Procureur de la République*), respected the provisions of the Code of Criminal Procedure, of positive law and of usage in the matter, and that the relevant record was transmitted as it stood to the Attorney General as No. 00130/DPJ/SG/DPJ/SDEEF/SEEF/S of 15 March 2011. The Minister of Justice also stated that the file was complete and that the only thing missing was the testimony of Mr. Ambassa Zang. For the Speaker of the National Assembly, the investigation concerning Mr. Ambassa Zang had not yet begun. In the "Sheet on the allegations of violation of the procedural rights of Deputy Dieudonné Ambassa Zang" (information sheet) prepared by the Ministry of Justice and handed to the delegation, it is noted that "the preliminary investigation in the present case is nearing its closure".

According to the Delegate General for National Security, the Attorney General was due to hear Mr. Ambassa Zang and could then decide either to close the case or to refer the matter to an examining magistrate.

With regard to the value of the CONSUPE report, the Prosecutor General (*Procureur général*) and the Attorney General (*Procureur de la République*) emphasized that the report was not binding on the examining magistrate. The facts contained in it served only as a working basis for the examining magistrate, who could accept or discard some or add others.

The authorities all observed that the file concerned not just Mr. Ambassa Zang but upwards of some 30 other people, mostly ministry officials, who had all been heard, 49 by the end of September 2009, according to the Minister of Justice. According to the authorities, most (if not all) said that they had acted on the minister's instructions. Others, such as Mr. Obate Jacques, the former Prefect of the Department of Mefou-Afamba, and Mr. Mekongo Abega Félix Debeauplan, treasurer in the Ministry of Public Works, had reportedly accused Mr. Ambassa Zang of other irregularities.³ It remains to be determined, however, whether all the persons who, besides Mr. Ambassa Zang himself, could provide useful information have indeed been heard, such as the Prime Minister or the officials of the Ministry of Finance at the time.

³ On this subject, according to the special Sheet with which the delegation was provided by the Delegate General for National Security, dated 25 May 2011, the former Prefect of the Department of Mefou-Afamba stated that Mr. Ambassa Zang "deliberately signed the credit authorizations at the end of the financial period to permit the conclusion of negotiated contracts in breach of the regulations on public contracts". As to the treasurer, Mr. Debeauplan, he maintained at his hearing that "the sums allocated to the personnel were issued on the verbal instructions of the Minister, who alone should be answerable".

2.3 Respect for the principle of adversarial proceedings

(a) *At the audit level*

- (i) It is recalled that the authorities have stated that, when an audit uncovers management faults or irregularities on the part of the person under audit, the latter receives a request for information. In the case of Mr. Ambassa Zang, serious breaches and misappropriations were found in the execution of the budget of the Ministry of Public Works. The Prosecutor General (*Procureur général*) told the mission that CONSUPE had prepared a report and addressed a request for information to Mr. Ambassa Zang, who had offered explanations. For his part, the Minister Delegate at the Presidency in charge of CONSUPE, emphasizing that the principle of adversarial proceedings was a rule that his institution applied, said that the request for particulars and information had been addressed to Mr. Ambassa Zang by the inspectors (the audit mission). The report had then been transmitted to the Prosecutor (*Procureur*) for further legal action. Asked whether Mr. Ambassa Zang had received a copy of the final report (taking account as appropriate of the defence arguments), the Prosecutor replied that the first addressee of the final report was the person under audit and that the report had been notified to him. However, according to the Minister of Justice and the Minister Delegate at the Presidency in charge of CONSUPE, the report is confidential and goes only to the Head of State. It was in the context of the (preliminary) investigation that Mr. Ambassa Zang could be informed of the final report.
- (ii) The documents made available to the delegation show that a request for information was indeed addressed to Mr. Ambassa Zang on 22 June 2007. It concerns, "over and above the perception of the administrative management of the operating and investment budgets" for the 2003 and 2004 period, (a) the management of the advance administrations, (b) the delegations of credits in the provinces and (c) the execution of the Wouri Bridge. Mr. Ambassa Zang replied to it by letter of 31 July 2007. It emerges from his letter that another investigation mission concerning the Wouri Bridge rehabilitation had already been carried out from March to June 2006. In the letter he sent on 24 October 2006 to the Minister of State, Secretary General of the Presidency, Mr. Ambassa Zang mentions "concordant and persistent information" indicating that the report of an investigation concerning the Wouri Bridge rehabilitation works had just been addressed to the Minister of State, Secretary General of the Presidency, for information of the Head of State. Mr. Ambassa Zang observes in the letter that the investigation mission had not contacted him and had not requested of him any information or explanations. On his own initiative, Mr. Ambassa Zang consequently sent the Minister of State a technical dossier backed by documentary evidence; he nevertheless received neither a reply nor even any acknowledgement of receipt.

(b) *With respect to CONSUPE and the legal proceedings*

According to the information supplied, Mr. Ambassa Zang has been heard neither by CONSUPE nor in court, the reason being his absence from Cameroon. However, the special adviser present during the meeting with the Minister of State, Deputy Secretary General of the Presidency of the Republic, observed that the Budgetary and Financial Discipline Council (CDBF) had conducted investigations into the mismanagement, but he did not recall the date.

The Minister of Justice emphasized that the investigation had to take account of the cases of both the prosecution and the defence, but observed that it was still subject to confidentiality at the investigation stage.

2.4. Question of the arrest and imprisonment of Mr. Ambassa Zang should he return to Cameroon

It is to be noted from the outset that the authorities all remarked that, if he was blameless, Mr. Ambassa Zang had nothing to fear. "If he has done nothing wrong, let him come back." The Minister of Justice spoke of the example of the present Minister of Public Works, who faced damning accusations but remained in the country. The authorities also gave the example of the

other suspects (persons questioned) in the present case, none of whom had been arrested. The authorities all asked the delegation to invite Mr. Ambassa Zang to return to Cameroon to defend himself, for the procedure was blocked in his absence. According to them, returning would be in his own interests because he could then consult the report concerning him, exercise his right to defence and so permit an adversarial debate. He alone could clarify certain things.

The Speaker of the National Assembly reaffirmed the pledge he had assumed in his meeting with the Committee in October 2010 to guarantee the non-imprisonment of Mr. Ambassa Zang should he return to Cameroon. "So long as he is not found guilty, not a hair of his head will be touched", he said. The Minister of Justice, after observing that the guarantee came from the Speaker of the Assembly, the State's second-ranking person, expressed the view that it would be disrespectful to issue a committal order for Mr. Ambassa Zang, who, as he saw it, should be heard free. The lifting of parliamentary immunity did not automatically mean arrest. He nevertheless could not say whether Mr. Ambassa Zang would or would not be arrested. As to the Prosecutor General (*Procureur général*), he specified that in procedural matters the principle was freedom but that, in the present case, he was unable to give an opinion on the subject of a possible arrest. It was for the examining magistrate to reach that decision quite independently. However, since the case was at the preliminary investigation stage, he could not be put in prison. The Attorney General (*Procureur de la République*), for his part, nevertheless acknowledged that the seriousness of the accusations would oblige the prosecuting authorities to seek an arrest warrant. The Prosecutor General insisted on the fact that the rights of the defence were fully respected in Cameroon. In this regard, the information sheet prepared by the Ministry of Justice sets out the country's various statutory provisions guaranteeing those rights. The Delegate General for National Security, for his part, assured the delegation that Mr. Ambassa Zang would not be arrested arbitrarily. He nevertheless voiced his conviction that Mr. Ambassa Zang had "something to hold against himself". According to him, "the stubborn facts are there: they [the persons incriminated] have stolen, and that has done society much harm".

The authorities wondered why Mr. Ambassa Zang was afraid of returning to Cameroon. Why did he fear arrest? They discounted political reasons and observed in this respect that Mr. Ambassa Zang belonged to the ruling party and could therefore feel protected. Furthermore, Ms. Fotso emphasized that the party could have prevented him from standing in the 2007 parliamentary elections had it not wanted him. The Minister Delegate at the Presidency in charge of CONSUPE said that Mr. Ambassa Zang had nothing to worry about, adding that the other suspects were all at liberty. No political problem was possible since, despite the investigation, Mr. Ambassa Zang had been elected when his candidature could have been blocked. According to the Minister, he is not targeted in particular since ongoing checks take place within the ministries and other public institutions.

2.5. Possibility, at this stage, of referring the matter to the Budgetary and Financial Discipline Council

The delegation raised the question of whether, at the present stage, the Budgetary and Financial Discipline Council could take up the matter, for that would enable Mr. Ambassa Zang to be represented by his lawyer.⁴ The Minister Delegate at the Presidency in charge of CONSUPE said that the case no longer lay within the purview of CONSUPE. The Minister, Deputy Secretary General of the Presidency, referred to the independence of the bodies, observing that the case could not at present be removed from the legal process under way. The matter could not be referred to two entities at the same time. Justice had to follow its course. However, the Deputy Secretary General of the Presidency in charge of Economic Affairs observed that it was a question to be put to the judiciary.

⁴ According to Article 14, Chapter III, Section I, of Decree 2008/028 governing the organization and functioning of the Budgetary and Financial Discipline Council, the Council may be seized by the President of the Republic, the Prime Minister, and the Minister in charge of the Supreme State Audit Office, among others. Article 17 (1), Chapter III, Section II, stipulates that referral to the Council impedes neither disciplinary action nor criminal proceedings. Furthermore, Law No. 74/18 of 5 December 1974 concerning oversight of the organizers, administrators and managers of public credits and State enterprises, amended by Law No. 76/4 of 8 July 1976 stipulates in its Article 10 that the accused ensures his or her own defence or does so by proxy.

2.6. Other procedural means mentioned

The Minister of Justice spoke of Article 64 of the Code of Criminal Procedure, whereby the Prosecutor General (*Procureur général*) at the Court of Appeal may, upon written authorization of the Minister of Justice, demand in writing and then orally, the halting of criminal proceedings at any stage of the procedure before a decision on the merits, when such proceedings may jeopardize the social interest or public order. He further noted that, if Mr. Ambassa Zang had misappropriated money, he could also repay it; there was a great deal of flexibility in the matter.

D. GENERAL OBSERVATIONS

1. Lifting of parliamentary immunity

The mission took good note of the written and oral information provided it regarding the procedure followed for lifting the parliamentary immunity of Deputy Ambassa Zang. It nevertheless observes that the Bureau was notified of the accusations made by the Ministry of Justice but not of the note that he sent to justify his absence. It also notes that the strong misgivings expressed by several Bureau members at the first meeting were such as to warrant putting the matter to the plenary Assembly. The mission therefore doubts that everything was done by the Assembly genuinely to ensure that the accusations laid against one of its members were fully founded and not biased. It fears that the information it gathered may not suffice to dispel the concerns expressed by the Committee on the Human Rights of Parliamentarians.

2. Parliamentary salary and microcredits

2.1. Parliamentary salary

The mission took note with satisfaction of the payment of a substantial sum into the account of Deputy Ambassa Zang in settlement of the part owing of his parliamentary salary. It nevertheless observes that the Deputy had received nothing in this respect since March 2010 – which had caused the Committee on the Human Rights of Parliamentarians to entertain doubts about the reasons for that failure – and that the payment was made only on the day of the arrival of the mission in Yaoundé, on 24 May 2011. It also observes that, at the time of writing this report, it does not know the precise breakdown of the sum.

2.2. Microcredits

The mission was very surprised to learn that the microcredit appropriation due to Deputy Ambassa Zang for 2010 had been paid to an unauthorized third party despite the fact that the deputy had, in November 2010, clearly and formally given the treasurer, Mr. Kamssouloum, all the requisite particulars and proxy arrangements for the sum to be paid into his account. It has misgivings about the motives behind that approach, which has caused much embarrassment vis-à-vis the enterprises having supplied the materials and carried out the scheduled works and also penalizes the citizens of that constituency when it comes to prospects for the implementation of other development projects in 2011. It earnestly hopes that the Assembly will be able to inform the Committee of the measures it will have taken to remedy the situation.

3. Adversarial proceedings

The mission well understands that the authorities are not formally obliged to take into account the observations made by a person incriminate in a report submitted by an audit mission, or even to answer them. It nevertheless notes that the application for the lifting of the parliamentary immunity of Deputy Ambassa Zang contains at least one accusation to which reference was not made in the request for information addressed to him in June 2007. Furthermore, the mission wonders whether the authorities have at least taken account of the factual errors pointed out by Mr. Ambassa Zang in the observations he had made on the audit mission's report, such as that consisting in blaming him for acts that took place when he was no longer in charge of the ministry.

The mission also observes that investigations were conducted over a long period on the management of Mr. Ambassa Zang and at least one report submitted without his being informed of it or being asked for any explanation. It further notes the conflicting information given it when it asked whether Mr. Ambassa Zang had received a copy of the final audit report.

It therefore has misgivings about the practical scope of the formal acts of consultation of the person concerned and about the reality of a genuinely adversarial investigation procedure in his case.

Furthermore, the mission notes that Mr. Ambassa Zang has never received any reply to the letter he sent the Prime Minister on 19 April 2010 asking for his case to be re-examined, or to that he sent the General Secretary of the Central Committee of the CPDM telling of manoeuvres against him, or again to the letters he sent the Speaker of the National Assembly about his situation.

4. Avenue chosen for prosecution

The mission readily acknowledges that the authorities are under no obligation to justify their choice. It nevertheless regrets not having received any information which would have given it a clearer idea of the reasoning that led them:

- to refrain from transmitting the file to the Budget and Finance Disciplinary Council, which could have stated its position with respect to the facts lying within its purview and transmitted to the judiciary those it found to constitute offences or crimes;
- or not to have referred to both the Budget and Finance Disciplinary Council and the criminal justice system facts lying within their respective purviews, inasmuch as the law permits such joint adjudication.⁵

5. Present stage of the proceedings

The differing information supplied did not enable the mission to form a clear idea of the exact situation regarding the present stage of the proceedings.

6. Fears of Mr. Ambassa Zang as to the likelihood of imprisonment should he return to Cameroon, without any real possibility of defending the innocence he claims, and as to the political motivation of the proceedings against him

The mission took good note of the assurances given by the authorities with respect to the prevalence of the rule of law in the country and to the fact that the deputy had in no way been "targeted" for stances within the Assembly. It is nevertheless obliged to note some troubling facts, namely:

- that several key political figures, such as the former Minister of Health, facing accusations similar to those levelled at Mr. Ambassa Zang, have been in detention for months or even years without any progress in the proceedings against them and without having been brought before a court;
- that the political stances that he considers to have given rise to his troubles came after the endorsement accorded him by the ruling party;
- that the investigations to which he was subjected and the first report drawn up against him in 2006, and not acted upon, did not prevent his endorsement as a candidate in the 2007 elections, but that the investigations took a new twist in 2009 and gave rise to prosecution after the political stances he had voiced;
- that some authorities, notably the Delegate General for National Security, seem to have maintained with regard to Mr. Ambassa Zang not a presumption of innocence but rather a presumption of guilt.

⁵ Article 17, Chapter III, Section I, of Decree 2008/028 establishing the organization and functioning of the Budgetary and Financial Discipline Council.

The mission further notes that, as it concludes its report, it has been informed that, during the night of 11 to 12 June 2011, several individuals made their way into the home of Mr. Ambassa Zang's customary wife and gang-raped her. In a message addressed to Mr. Ambassa Zang, the perpetrators of that crime vaunted it with an explicit reference to the mission of the IPU, whose action concerning the deputy was known only to a limited circle of senior officials. The mission therefore finds it hard to see in that unspeakable deed anything else but an act of reprisal and intimidation, which lends strength to the allegations and fears of Mr. Ambassa Zang.

Geneva, June 2011

E. OBSERVATIONS SUPPLIED BY THE AUTHORITIES

- **Observations supplied by Mr. Amadou Ali, Deputy Prime Minister, Minister of Justice of Cameroon, in a letter addressed to the Speaker of the National Assembly (9 August 2011)**

[...]

Further to your correspondence, I am pleased to bring to your attention the fact that the report of the visit to Cameroon of a delegation of the Committee on the Human Rights of Parliamentarians on the case concerning Dieudonné Ambassa Zang, MP, calls for certain observations regarding the stage reached in the proceedings, the promise not to arrest the member of parliament and to the alleged attack on his common-law wife.

At this stage of the proceedings, the report would tend to imply that the authorities are being vague on the matter. This impression is based on the fact that the Director of the Criminal Investigation Division (CID) indicated that the investigation was over and that the case had been handed over to the Attorney General, whereas it appears from the file drawn up by the Ministry of Justice that the preliminary investigation is now coming to a close. It must be said that the criminal procedure is divided into three phases: the preliminary investigation, judicial information and the sentencing. The preliminary investigation is conducted by the CID under the supervision of the Attorney General. As long as the latter has not seized either the examining magistrate or the sentencing court, the case remains at the stage of the preliminary investigation insofar as this body can order additional enquiries before taking a decision. This means that the information contained in the Ministry of Justice file is as relevant as ever.

Regarding the promise not to arrest the member of parliament, the report in question claims that during the hearing with the Minister of Justice, after the Minister was informed of the position of the Speaker of the National Assembly, he noted that this guarantee came from the second highest office holder in the State and he said that it would be disrespectful to issue a committal order against a member of parliament and that, in his opinion, the MP should be heard freely. I am pleased to underscore that on that occasion, the Minister of Justice said merely that he was not in a position to comment on the words of the second highest office holder of the State.

The report indicates lastly that during the night of 11 to 12 June, the MP's common-law wife was attacked in her home and was the victim of a gang rape by individuals who boasted about their crime and alluded to the Inter-Parliamentary Union mission, which was only known about by a handful of high officials. The authors of the report thus consider that this act was used as a means of intimidation and retaliation, which corroborates the allegations and fears expressed by Mr. Ambassa Zang. For these acts, of which the police and judicial services were unaware, I have recommended that an inquiry be opened.

- **Communication addressed to the IPU Secretary General by Mr. Siegfried David Etame Massoma, Minister assigned to the Office of the President and Head of the Supreme State Audit Office (12 August 2011)**

[...]

In response to certain conclusions of the report you forwarded to me, allow me first of all to recall that, regarding the Supreme State Audit Office, which conducted in 2006 a management audit based on proceedings against Mr. Dieudonné Ambassa Zang, the Committee's delegation in the above-mentioned mission expressed certain concerns concerning essentially a lack of respect for the rights of the defence and for the choice of criminal proceedings.

To these comments, I wish to make the following clarifications:

Regarding the procedure, notably respect for the rights of the defence, the audit conducted by the Supreme State Audit Office was carried out in compliance with relevant

standards and in conformity with the provisions of Decree No. 97/048 of 5 March 1997 on mobile audit missions, which makes it compulsory for the parties involved to be present during the methodological procedure.

Notwithstanding, copies of the requests for information and responses provided by the undersigned were conveyed to the Committee's delegation.

With regard to communication of the audit's final report, Article 23(1) of the above-mentioned Decree stipulates that audit reports are intended exclusively for the President of the Republic and not for the person subject to the audit. Mr. Ambassa Zang knows that very well since he started off his career at this very Office as a State Auditor.

As for the requirement to first seize the Budget and Finance Disciplinary Council, it has no legal value in Cameroonian law, which applies the rule of the possibility of instituting proceedings and the free choice of procedure. Moreover, Article 17(1) of Decree No. 2008/028 of 17 January 2008 on the organization and functioning of the above-mentioned Council stipulates that its seizure does not preclude either disciplinary or criminal action; which gives the authority the freedom to choose which procedure to initiate.

By virtue therefore of the specificities of Cameroonian law, the concerns expressed by the Committee on the Human Rights of Parliamentarians on the above-mentioned case regarding the action taken by the Supreme State Audit Office are irrelevant.

[...]

- **Observations to the Committee's mission report submitted by Mr. Martin Mbarga Nguete of the General Delegation for National Security of Cameroon (24 August 2011)**

[...]

Further to your letter under reference concerning the report of the Committee on the Human Rights of Parliamentarians of the Inter-Parliamentary Union on its mission to Cameroon from 24 to 27 May 2011, I have the honour to inform you that the aforesaid document prompts in me the following observations and comments:

- **On the conclusions of the report regarding the question of the arrest and imprisonment of Mr. Ambassa Zang in the event of his return to Cameroon**

The report states: "The Delegate General for National Security, for his part, assured the delegation that Mr. Ambassa Zang would not be arrested arbitrarily. He nevertheless voiced his conviction that Mr. Ambassa Zang had 'something to hold against himself'. According to him, 'the stubborn facts are there: they [the persons incriminated] have stolen, and that has done society much harm'" (page 9).

It infers therefrom that "some authorities, notably the Delegate General for National Security, seem to have maintained with regard to Mr. Ambassa Zang not a presumption of innocence but rather a presumption of guilt" (page 12).

I should like to resituate what I have to say in its context by observing that I pointed out that it was established that cases of misappropriation of public funds, doing society much harm, were a known and recurrent phenomenon in Cameroon. I was thus talking generally about the situation prevailing in Cameroon that needs to be cleared up, and not about the particular case involving Mr. Ambassa Zang.

On the presumption of innocence enjoyed by all defendants, I made myself clear, and could not contradict myself, observing inter alia that the Attorney General had to "hear Mr. Ambassa Zang and could then decide either to close the case or to refer the matter to an

examining magistrate" (page 7); hence the overriding need for the person involved to return to the country and provide clarifications regarding the facts at issue, his refusal to do so logically suggesting that he has something on his conscience.

- **Regarding the attack on the customary wife of Mr. Ambassa Zang**

The allegations on this subject turn out to be specious and quite illogical. It would be absurd for the Cameroonian Government to invite Mr. Ambassa to come and answer the allegations against him and at the same time to engage in acts likely to discourage him from doing so. Furthermore, the delegation conducted no investigation into the truthfulness of the allegations. It may also be wondered what Mr. Ambassa, given his status, means by "customary wife", for whom we have neither personal particulars nor the entity in which her complaint was lodged.

- **On Mr. Ambassa Zang's criticisms of the management of the Ministry of Finance**

The members of the Government, particularly the Minister of Finance in the session during which the appropriation bill is discussed, are regularly butts for criticism from parliamentarians of their management of public affairs. The question-and-answer bouts are an exercise provided for in the Constitution and the deputies always weigh in heartily without any risk of court action.

In my humble analysis, Mr. Ambassa Zang Dieudonné is seeking to impugn motives and would like to make use of the Committee on the Human Rights of Parliamentarians of the Inter-Parliamentary Union to pass himself off as a man targeted and harassed politically in his country, in order to escape justice and qualify for political asylum in a foreign country. Questions need asking about Mr. Ambassa, who surreptitiously left the country just two days after the request for the lifting of his parliamentary immunity, who presses for all his financial advantages from the National Assembly, and who feigns unawareness of the rights of the people suspecting him of having misused their money.

It consequently seems to me that the Inter-Parliamentary Union ought to conduct its investigation against as well as in favour of the person concerned.

* * * * *