



Inter-Parliamentary Union

For democracy. For everyone.

## Mongolia

MON/01 - Zorig Sanjasuuren

***Decision adopted unanimously by the IPU Governing Council at its 197<sup>th</sup> session (Geneva, 21 October 2015)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Zorig Sanjasuuren, a member of the State Great Hural of Mongolia, who was murdered on 2 October 1998, and to the decision adopted at its 196<sup>th</sup> session (Hanoi, April 2015),

*Referring* to the letters of 21 April and 3 July 2015 from the Vice-Chairman of the State Great Hural and Chairman of the Executive Committee of the Mongolian Inter-parliamentary Group,

*Recalling* that Mr. Zorig Sanjasuuren, a leader of the democracy movement in Mongolia in the 1990s, was assassinated in October 1998 and that neither the culprits, nor the instigators, have been identified to date, despite uninterrupted investigations since his death,

*Taking into account* that a delegation of the Committee on the Human Rights of Parliamentarians led by Ms. Kiener-Nellen conducted a mission to Mongolia from 16-19 September 2015,

*Considering* that, during the mission, the delegation met parliamentary, government and judicial authorities, as well as political parties, law enforcement agencies, human rights organizations, family members and diplomats; it welcomed the authorities' cooperation and willingness to engage and noted that all Mongolian authorities, starting with the State Great Hural, shared their dissatisfaction and disappointment that the crime had not been resolved after such a long time and reaffirmed their continued commitment to shed light on the assassination and hold the culprits to account,

*Further considering* that the final mission report will be presented to the Governing Council at its next session (March 2016), after being shared with all parties for their observations, but that the Committee wishes to share the following preliminary observations and recommendations of the delegation on its mission:

- **Status of the investigation on the assassination of Mr. Zorig Sanjasuuren:**
  - The delegation was able to verify that a judicial investigation is still effectively ongoing, although no suspect has been charged to date; the investigative working group is composed of nine persons working full time on the investigation under the direction and supervision of the Deputy Prosecutor General; the current group has been operating since the appointment of the current Deputy Prosecutor General in December 2013; the delegation took note that the investigation is particularly difficult in light of the initial deficiencies of the investigation (including the contamination of the crime scene) and the passing of time; a significant focus on investigative efforts has therefore been on forensic analysis in

E

recent years; the delegation received confirmation in that respect that past IPU assistance had been valuable in establishing contact with foreign forensic experts and that further assistance would be useful, as new forensic technologies have emerged; the delegation, however, questioned the value of forensic evidence on the premises that, even if forensic analysis eventually led to the identification of the direct perpetrators, it was unlikely that the evidence would stand up in court, due to the initial crime scene contamination and the conditions in which the forensic samples were collected and stored for 17 years; the delegation further questioned the value of concentrating investigative efforts on the identification of the killers rather than on the instigator(s) of the assassination;

- Aside from the forensic activities, the delegation was unable to assess the overall progress made in the investigation in recent years, or its timeline for the coming months because of its high threshold of confidentiality; it obtained no new information on the identity of potential suspects, or on the motives of the assassination; the delegation, however, was told by many of its interlocutors that it is widely believed, among the general public, that Mr. Zorig Sanjasuuren's assassination was a political contract killing, which was most likely related to his upcoming appointment as Prime Minister at the time of his death,

- **Confidentiality of the investigation**

- The delegation was able to clarify that the "wall of secrecy" surrounding the case is essentially due to the classification of the case under the State Secret Law; the case was classified because of the involvement of the intelligence agency in the investigation under article 81 of the Criminal Code and article 27 of the Code of Criminal Procedure; this involvement was justified by the fact that Mr. Zorig Sanjasuuren was an official figure at the time of his assassination, as he was a member of parliament as well as the Minister of Infrastructure at that time; the confidentiality is also due to the fact that the criminal investigation is still ongoing and that, until charges are brought against identified suspects, the prosecutor's office has no obligation to disclose the case file; therefore, even if the case was declassified, it would remain confidential, with the exception of any information that the head of the investigative working group may decide to disclose;
- The delegation understands that, like in any criminal investigation, there is a need for a measure of confidentiality to be maintained, in particular due to the political sensitivity of the case; it does not, however, find it appropriate that the case continues to be classified 17 years later; it also finds it very unusual that intelligence services would play such an important and lasting role in a criminal investigation; it observes that the uninterrupted involvement of the intelligence agency in the investigation and the ensuing lack of transparency, combined with alleged dubious methods of questioning and investigation at times, were also raised by many as a concern;
- The delegation considers that the confidentiality of the case is excessive and that it is not conducive to progress or accountability; it emphasizes that the high level of confidentiality prevents any effective oversight of the investigation, which is happening behind closed doors with no public scrutiny; the delegation wishes to remind the Mongolian authorities that justice needs to be done, but it also needs to be seen to be done; the very fact that it also prevents any debate on the case in parliament, or in any other public spheres, is very striking; so is the fact that the IPU Committee on the Human Rights of Parliamentarians has been unable to receive substantive information on the investigation, or to obtain responses to its information queries on the repeated grounds of the classified status of the case,

- **Political will and ways forward**

- It was important for the delegation to find out whether there was a still some political will on the part of the Mongolian authorities to resolve the case; it noted with satisfaction that all authorities reaffirmed their will to bring about progress; the delegation considers that there are many combined factors that are likely to account for the lack of results in the investigation after 17 years, including:
  - the initial investigative deficiencies (particularly the contamination of the crime scene);
  - issues related to the training and competence of the investigators, as well as forensic technologies available;

- the endless replacement of the investigators;
  - the ongoing involvement of the central intelligence agency and excessive secrecy created by the classified status of the case;
  - the political dimension of the case and its subsequent political instrumentalization by political parties;
  - the time elapsed and its consequences;
  - the lack of accountability of the competent authorities despite the absence of results in the investigation,
- The delegation is not in a position to conclude that, among the various factors, political interference may have played a significant role, but it can also not exclude it; this is particularly true considering the lack of results in resolving the case after 17 years of full-time uninterrupted investigations and corresponding political commitments by the successive authorities to establish the truth;
  - The delegation furthermore noted that secrecy and lack of progress in the investigation have strongly eroded the trust and confidence of the general public that there was ever any real political will to establish the truth; while all authorities, including the investigative working group, asserted that they had encountered no political hurdles or interference, the delegation could not fail to note that it was repeatedly told by its interlocutors that the general public is generally convinced of the contrary and believes that the case has been covered up; the repeated political instrumentalization of the case by all political parties for electoral gain has further given weight to the current perception of the public that law enforcement agencies are serving political interests; the renewed commitments to shed light on Mr. Zorig Sanjasuuren's assassination are therefore widely seen today as empty political promises,
- **Preliminary recommendations**
- On the basis of the above preliminary findings, the delegation is of the view that only tangible progress and transparency in the investigation can effectively demonstrate that strong political will to find out who killed Zorig Sanjasuuren still exists today in Mongolia; renewed impetus in the investigation is therefore urgently needed; the delegation calls on the Mongolian authorities to redouble their efforts to resolve what is widely believed to have been a political assassination; it urges them to establish clear priorities and a timeline to that end;
  - The delegation also believes that the investigative group could benefit from specialized assistance and training on investigation methodology related to contract killings; it also suggests that the investigative team invests more time in examining witness statements, public records and open source materials instead of essentially focusing on forensic analysis, which, in the view of the delegation, is unlikely to prove conclusive and will, in any case, not help establish the motives of the assassination or the identity of the instigators;
  - The delegation further calls on the Mongolian authorities to strike an appropriate balance in the treatment of the case between the need for a reasonable measure of confidentiality and the pressing need for increased transparency and regular public communication on the investigation; the delegation recommends that the case be promptly declassified and that the State Secret Law be amended to avoid similar situations in the future; it calls upon the competent authorities, in particular the National Security Council and the State Great Hural, to take prompt action to that end; it also recommends that a system of public reporting on the investigation be promptly established and that opportunities for public debate be created to boost public confidence that appropriate action is being taken by the competent authorities;
  - Furthermore, the delegation expects that the investigative working group will continue to report quarterly on its latest investigative activities (including breakthrough and challenges) to the special oversight subcommittee of the State Great Hural and that the latter will effectively exercise its oversight function;
  - The delegation urges the Mongolian authorities, particularly the investigative working group and the special oversight subcommittee of the State Great Hural, to keep the Committee on the Human Rights of Parliamentarians apprised of their efforts, including recent investigative steps taken, their outcome and outstanding challenges; to that end, it wishes to receive periodic reports on the investigation at least twice a year before each IPU Assembly;

- The delegation further invites the State Great Hural to organize a public debate on the case in parliament; it calls on all political parties to adopt a joint resolution by consensus in support of the resolution of the case; it is convinced that it would be an important step forward for all political forces to acknowledge the existing concerns and commit themselves, in the common interest of the nation, to taking and supporting all appropriate measures to bring about progress, including increased transparency, effective oversight and a commitment to stop resorting to the case for political gain; the delegation suggests that such a joint resolution should also include a public apology to Mr. Zorig Sanjasuuren's family for the State's failure to bring those responsible for his killing to justice,
- 1. *Thanks* the Mongolian authorities for their cooperation and assistance;
- 2. *Takes note* of the preliminary observations of the Committee on the mission and; *eagerly awaits* the final mission report at the next IPU Assembly (March 2016);
- 3. *Notes with satisfaction* the authorities' willingness to engage and their continued commitment to shedding light on the assassination and holding the culprits and the instigators to account; *urges* them to redouble their efforts to resolve the crime and to take prompt action to strike a more appropriate balance between the need for a reasonable measure of confidentiality and the pressing need for increased transparency and public communication on the investigation; particularly *calls upon* the President, the Prime Minister and the Speaker of the State Great Hural, as members of the National Security Council, to declassify the case;
- 4. *Notes with interest* that the investigative working group has been authorized to report quarterly to the parliamentary oversight subcommittee; *trusts* that the special oversight subcommittee of the State Great Hural will be kept informed of ongoing investigative activities and their outcome and will be able to exercise its oversight function effectively;
- 5. *Wishes* to be kept apprised of future developments related to the case through bi-annual periodic reports focusing in particular on: (i) recent investigative activities, including their outcome and outstanding challenges; (ii) the assessment and recommendations made by the special oversight subcommittee of the State Great Hural; (iii) and progress made in implementing the recommendations arising out of the Committee's mission to Mongolia;
- 6. *Requests* the Secretary General to convey this decision to all relevant parliamentary, executive and judicial authorities, including the Speaker of the State Great Hural, the President and the Prime Minister of Mongolia, the Minister of Justice, the Prosecutor General and the Deputy Prosecutor General, the Chairman and members of the special parliamentary oversight subcommittee, the chairmen of the parliamentary caucuses of political parties, as well as the complainant and any other third party likely to be in a position to supply relevant information;
- 7. *Requests* the Committee to continue examining this case and to report back to it in due course.