



Inter-Parliamentary Union
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Niger

RN/115 - Amadou Hama

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 149th session (Geneva, 15-25 January 2016)

The Committee,

Referring to the case of Mr. Amadou Hama, former Speaker of the National Assembly of Niger, and to the decision adopted by the IPU Governing Council at its 197th session (October 2015),

Referring to information received from the complainant,

Recalling that:

- On 27 August 2014, the Bureau of the National Assembly of Niger authorized the arrest of Mr. Amadou Hama, then the Speaker of the National Assembly, in response to a request from the Prime Minister on 25 August 2014, in the context of judicial proceedings linked to trafficking in babies; following the Bureau's decision, Mr. Amadou Hama left Niger on 28 August 2014 and fled abroad; a warrant for his arrest was issued;
- Mr. Amadou Hama and 30 others are being prosecuted for “child substitution” (and aiding and abetting child substitution), forgery and use of forged documents, and criminal conspiracy, which are punishable by up to 10 years in prison and the revocation of civic and political rights; Mr. Amadou Hama's wife, along with other women, is accused of faking their pregnancies and purchasing newborn babies in Nigeria through a Nigerian woman healer involved in a subregional baby-trafficking network, and of obtaining false birth certificates on their return to Niger; Mr. Amadou Hama is accused of complicity for allegedly having known of his wife's conduct and having had false birth certificates issued;
- Mr. Amadou Hama and the 30 others under investigation (including his wife), were formally charged on 4 December 2014; Niamey magistrate's court began considering the matter on 2 January 2015 and found on 30 January 2015 that it was not competent to hear the case; the prosecuting authorities appealed, and the appeal court ruled on 13 July 2015; it found against the decision of the lower court and ordered the magistrate's court to hear the case in full; Mr. Amadou Hama has appealed that decision in a higher court of appeal and the full hearing will only be able to begin if the higher court of appeal rules accordingly,

Also recalling the complainant's allegations and the position of the parliamentary authorities:

- The complainant alleges that the procedure followed by the National Assembly to authorize Mr. Amadou Hama's arrest took no account of his parliamentary immunity and rights of defence, that there is no evidence to back up the charges against him, and that he has been the victim of a campaign of political and legal harassment ever since he brought together a number of opposition parties and declared his intention to stand as a candidate for the presidential elections, scheduled for February 2016;

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- The parliamentary authorities are of the opinion that the procedure at the National Assembly and the judicial proceedings were conducted in accordance with the Constitution and the law of Niger,

Further recalling the Committee's previously expressed concerns that the procedure followed by the National Assembly to authorize Mr. Amadou Hama's arrest had not ensured respect for the rights of the defence,

Recalling in addition that, in his letter of 23 March 2015, the Speaker of the National Assembly undertook to review the legislature's fundamental texts, in order to ensure better protection for parliamentarians,

Taking into account that the observer tasked by the Committee with monitoring judicial proceedings concluded in a mission report of April 2015 that, as a whole, the proceedings to date seemed to have been conducted according to due process; that he had discovered that there were opposing opinions with regard to the case; and that, even though it would seem reasonable to suspect that scores were being settled, a certain number of objective facts had nevertheless come to light, which could be considered as reasonable grounds for launching a prosecution; and that he recommended that another observer be tasked with following the rest of the proceedings,

Considering the recent developments below, communicated by the complainant, that:

- Mr. Amadou Hama returned to Niger on 14 November 2015 to attend judicial proceedings and to campaign in the presidential elections;
- He was arrested immediately after leaving the plane; on the same day, and before his case had been considered by a judge, he was transferred by order of the Ministry of Justice to Filingué Prison, which is several hours drive from the capital;
- His requests to be released on bail have been systematically denied, while all the other defendants are not currently detained;
- Mr. Amadou Hama continues to be detained in conditions which are a cause for concern; it is difficult for his family and lawyers to visit him because of the distances involved and problems with gaining access to the prison;
- His candidature and ability to campaign in the presidential election scheduled for 21 February 2016 was authorized by the constitutional court on 9 January 2016, but he cannot do any campaigning because he continues to be held in pretrial detention;
- In view of the lack of independence and impartiality demonstrated by the judges dealing with his case, Mr. Amadou Hama announced on 13 January 2016 that he considered himself to be a political prisoner, that he was refusing to defend himself within ongoing judicial proceedings, and that it would now only be possible to solve the situation by political means,

Bearing in mind the applicable constitutional, legislative and regulatory framework, as well as the fact that Niger is party to both the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights,

1. *Reiterates* its previous concerns about the procedure that the Bureau of the National Assembly followed when it authorized Mr. Amadou Hama's arrest; *urges* the National Assembly to amend its Standing Orders in order to provide for an appropriate framework for that procedure, ensuring in particular that the procedure guarantees all rights of the defence;
2. *Deplores* that the authorities have not provided any information about developments that have happened in the case since October 2015, despite having been sent requests to do so;
3. *Is concerned* by the circumstances under which Mr. Amadou Hama was arrested and detained when he returned to Niger;

4. *Calls on* the Niger authorities to act in accordance with international standards for ensuring due process with regard to Mr. Amadou Hama's case; *reiterates* its desire to send an observer to attend the full trial;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be able to provide relevant information and to take any necessary steps to organize a trial observer's mission in due course;
6. *Decides* to continue examining the case.