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Inter-Parliamentary Union

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BURUNDI

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CASE N° BDI/57 - GERARD NKURUNZIZA

CASE N° BDI/59 - DEO NSHIRIMANA

Resolution adopted unanimously by the IPU Governing Council at its 193rd session

(Geneva, 9 October 2013)

The Governing Council of the Inter-Parliamentary Union,

Referring to its examination of the cases of the above-mentioned members of the Parliament of Burundi and to the resolution it adopted at its 190th session (April 2012),

Considering the report (CL/193/11(b)-R.1) on the visit conducted by the President of the Committee on the Human Rights of Parliamentarians to Burundi from 17 to 20 June 2013,

Recalling that the cases, which the Committee has been examining for many years, concern:

- . The assassinations of six members of the National Assembly between 1994 and 2000, namely Mr. Sylvestre Mfayokurera (September 1994), Mr. Innocent Ndikumana (January 1996), Ms. Liliane Ntamutumba and Mr. Gérard Gahungu (July 1996), Mr. Paul Sirahenda (September 1997), Mr. Gabriel Gisabwamana (January 2000), the assassination in 2002 of Mr. Jean Bosco Rutagengwa and two assassination attempts on Mr. Norbert Ndiwokubwayo (September 1994 and December 1995), all of which remain unpunished to date;

- . The grenade attacks of 19 August 2007 and 6 March 2008 on eight members of the previous legislature (Mr. Nephtali Ndikumana, Mr. Pasteur Mpawenayo, Mr. Jean-Marie Nduwabike, Ms. Frédérique Gahigi, Mr. Mathias Basabose, Mr. Léonard Nyangoma, Ms. Zaituni Radjabu and Ms. Alice Nzomukunda) belonging to a dissident wing of the National Council for the Defence of Democracy - Forces for the Defence of Democracy (CNDD-FDD), which caused material damage but did not injure anyone and which have likewise gone unpunished;

- . Criminal proceedings brought against Mr. Hussein Radjabu, Mr. Pasteur Mpawenayo, Mr. Gérard Nkurunziza and Mr. Déo Nshirimana, all of whom belonged to the dissident wing of the CNDD-FDD led by Mr. Radjabu (who was ousted on 7 February 2007 from the CNDD-FDD party leadership), all of whom lost their seats in parliament following the Constitutional Court ruling of 5 June 2007 declaring them to be sitting unconstitutionally, and whose judicial situation is currently as follows:

- Mr. Radjabu is serving a 13-year prison term for conspiracy against State security;
- Mr. Mpawenayo was arrested in July 2008 and initially accused of being Mr. Radjabu's accomplice and of having co-chaired the meeting at which the acts of which he and Mr. Radjabu were accused are alleged to have occurred; he was acquitted by the Supreme Court judicial chamber at the end of May 2012 and subsequently released;

° Mr. Nshirimana, who was arrested in October 2010 by agents of the National Intelligence Service (SNR), was charged, reportedly on the basis of hearsay, of plotting against the State; according to his lawyer, Mr. Nshirimana is also accused of not having allowed two players from the football team of his region to play against the President's team, which was qualified as incitement to disobedience; the Supreme Court acquitted Mr. Nshirimana on 26 November 2012, and Mr. Nshirimana was released after having been detained in remand for almost the length of the maximum potential sentence;

° Mr. Nkurunziza was arrested in July 2008 and accused of having distributed weapons in his province, Kirundo, for a rebellion against the authority of the State; according to his lawyers, the investigation was based solely on hearsay and no weapons were seized; in five years of judicial proceedings, no Burundian court ever examined either Mr. Nkurunziza's detention or the charges against him until May 2012, when the Supreme Court at last heard the case and adjourned to deliberate; instead of ruling on the case, the Supreme Court decided to re-open it over one year later, even though it had still not considered the lawfulness of Mr. Nkurunziza's continued detention,

Bearing in mind that, according to the sources, the Supreme Court sat on Mr. Nkurunziza's case on 30 September 2013 and decided to re-open it without specifying why, that it had refused to examine the lawfulness of Mr. Nkurunziza's detention for five years or to consider the case on the merits, and that it has not set a date for fresh hearings,

Considering furthermore that the visit report was sent to the Burundi authorities by letter dated 8 August 2013, inviting them to forward any observations in writing by 15 September 2013; that, such observations not having been received, a reminder was sent on 24 September; that, by the time the Permanent Mission of the Republic of Burundi to the United Nations had contacted the secretariat of the Committee and requested a hearing, it was no longer possible to accommodate such a hearing in the Committee's schedule, so the secretariat asked the delegation to submit its observations in writing; that no such observations were ever received from the authorities of Burundi, but a formal application for a hearing was received on 7 October 2013, when the Committee had finished its deliberations, whereupon the Committee selected two of its members to meet with the delegation for an informal exchange; and that, following that exchange, the Committee members having been briefed about the concerns of the delegation, they repeated their request for those concerns to be made available in written form, so that the Committee could examine them properly at its next scheduled session,

1 Thanks the Speaker of the National Assembly for his cooperation, which enabled the President of the Committee to fulfil his terms of reference during the visit; sincerely regrets that no written observations have been received on the mission report to date, and expresses the hope that they will be provided soon;

2 Thanks the President of the Committee for his work and endorses his general conclusions;

3 Is alarmed to learn the Mr. Nkurunziza continues to be held in custody, more than five years after his arrest, and that the Supreme Court has re-opened the case; is deeply disappointed to observe that the authorities have not upheld the pledge they made during the visit of the Committee President to wind up the case before September 2013; once again recalls that justice delayed is justice denied and considers that these fresh delays are inexcusable and should prompt the authorities to release Mr. Nkurunziza immediately; once again deplores the fact that, in this case, the judicial authorities continue to act with flagrant disregard for international and national fair-trial standards;

4 Notes with interest that Mr. Mpawenayo and Mr. Nshirimana have been acquitted but observes that they each spent several years in detention, a situation that could have been avoided had the authorities decided to speed up the proceedings or release them on bail; sincerely hopes that, once the current appeal has been heard, the acquittals will be confirmed without delay and the Committee will be able to consider these cases as definitively resolved and close them; expresses concern about and requests additional information on the threats and intimidation that Mr. Mpawenayo and Mr. Nshirimana allege they have been victim of since their release;

5 Deeply regrets the authorities' refusal to furnish a copy of the court decisions in the above cases to the Committee and considers that, until the Committee has been able to make its own analysis of the judgement in Mr. Mpawenayo's case, it cannot rule out that his acquittal should have prompted the authorities to re-examine the evidence on which Mr. Radjabu was convicted; encourages Mr. Radjabu and the competent authorities to explore all possible legal remedies, namely release on parole, a re-trial and a presidential pardon; wishes to be kept informed of progress in that regard and renews its request for a copy of the court decisions;

6 Welcomes the decision by the National Assembly's parliamentary working group to travel to the country's interior to collect detailed information on the circumstances of the above-mentioned assassinations, notably by meeting with the victims' families; expresses satisfaction that, after many delays, draft legislation on the Truth and Reconciliation Commission was at last tabled in the National Assembly in early 2013; calls upon the National Assembly to take due account of the concerns expressed about some of the draft legislation's provisions and to ensure that the draft legislation meets the aspirations expressed by the Burundian people during the consultations organized by the tripartite committee; sincerely hopes that an independent, legitimate and credible Truth and Reconciliation Commission will finally be established;

7 Encourages the National Assembly's parliamentary working group to continue following up the cases under consideration, notably by meeting regularly with all the competent authorities and with the former parliamentarians concerned, and by observing any ongoing judicial proceedings; trusts that the parliamentary working group will in future forward its periodic activity reports to the IPU's Committee so as to enable the latter to be regularly and fully informed of the progress it is making;

8 Requests the Secretary General to forward this resolution to the parliamentary authorities and to the sources;

9 Requests the Committee to continue examining the cases.