

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

ALBERTO T CAPITAO

v.

TANZANIA

DECISION

Citation: Capitaov. Tanzania, Comm. 53/91, 8th ACHPR AAR Annex VI (1994-1995)
Publications: IHRDA, Compilation of Decisions on Communications of the African
Commission On Human and Peoples' Rights Extracted from the Commission's Activity
Reports 1994-2001, at 353 (2002); Documents of the African
Commission on Human and Peoples' Rights, at 384 (Malcolm D. Evans & Rachel
Murray eds., 2001); (2000) AHRLR 314 (ACHPR 1995)

COMPLAINT

[1] Alberto Capitaov. is a businessman and a former citizen of Zaire, presently resident in Angola. He sued the Tanzanian Film Company, a state-owned company, in Zairian court, and won a judgment of \$500,000 on 4 July 1984. The Embassy of Tanzania in Kinshasa was sued simultaneously with the Tanzanian Film Company. As of January, 1985, no appeal in the case had been filed. The Tanzanian Film Company failed to pay the judgment debt. The Tanzanian Film Company has no property in Zaire; the only property of the Tanzanian State is the Embassy of Tanzania in Kinshasa, which is exempt from seizure under the tradition of diplomatic immunity. The complainant sought the intervention of the Foreign Ministries of Zaire and Angola where he now resides to no avail.

[2] The complainant argues that he has been deprived of justice and in essence of the right to have his cause heard, since as an individual holding a judgment against a foreign state which refuses to pay, he has no recourse.

DECISION

[3] The Commission decided that the case was inadmissible on account of lack of exhaustion of local remedies. The case can be resubmitted when the local remedies have been properly exhausted or if the complainant proves that local remedies are unavailable, ineffective or unreasonably prolonged.