

11 November 1997
Communication No. 162/97

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
Twenty-Second Ordinary Session
2-11 November 1997

MOUVEMENT DES RÉFUGIÉS MAURITANIENS AU SÉNÉGAL
v.
SÉNÉGAL

DECISION

BEFORE: CHAIRMAN: Mr. Youssoupha Ndiaye
VICE CHAIRMAN: Dr. Vera V. Duarte Martins
COMMISSIONERS: Dr. Mohamed Hatem. Ben Salem, Prof. Emmanuel V.O.
Dankwa, Dr. Nyameko Barney Pityana, Dr. Ibrahim Badawi El Sheikh, Mrs.
Julienne Ondziel-Gnelenga, Mr. Kamel Rezzag-Bara, Prof. Isaac Nguema

Citation: Mouvement des Réfugiés Mauritaniens au Sénégal v. Sén., Comm. 162/97, 11th
ACHPR AAR Annex II (1997-1998)

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 325 (2002); Documents of the African
Commission on Human and Peoples' Rights, at 613 (Malcolm D. Evans &
Rachel Murray eds., 2001); (2000) AHRLR 287 (ACHPR 1997)

THE FACTS

1. The complainant alleges that during the operations carried out from 16-29 October 1996 in the region of Podor, Mauritanian refugees established there were the main targets of the Senegalese security forces. Refugees were reportedly arrested and subjected to all sorts of humiliating treatment during identity checks. The green card the Senegalese State had issued to them were allegedly not regarded as valid by the security forces who considered them expired.
2. The complainant further alleges that a group of individuals described as Mauritanian refugees were arrested by the Senegalese gendarmerie in Mboumba and on the Island of Morphil in October 1996.
3. The communication finally alleges that these Mauritanian refugees are still being held at the Central Prison in Saint Louis, whilst Senegalese nationals arrested together with them have been set free.

4. In a note verbale dated 24 July 1997, addressed to the Secretariat of the Commission, the Senegalese Ministry of Foreign Affairs and Expatriate Senegalese maintains that since the month of December 1995, when the United Nations High Commission for Refugees stopped distributing food, the majority of Mauritanian refugees voluntarily returned to Mauritania and those who remained are moving about freely, that they are shuttling between Rosso/Senegal and Rosso/Mauritania trying to reach an agreement with the Waly of Trarza in order to arrange for their final repatriation. The Ministry of Foreign Affairs insists that, in spite of the fact the refugees do not carry green cards they are nevertheless free to go about their business on both sides of the common border.
5. The Ministry of Foreign Affairs also claims that the following four Mauritanian refugees: Samba Mbare, Alassane Bodia, Oumar Bodia and Balla Samba arrested by the Senegalese gendarmerie for allegedly taking part in the murder of an officer of the Mauritanian gendarmerie, were set free for lack of evidence. The Ministry of Foreign Affairs therefore argues that the communication should be declared inadmissible on the grounds that the allegations it contains are unfounded.
6. In reaction to the arguments of the defendant State, the complainant reiterated the facts alleged and rejected the Senegalese government's claim that the refugees voluntarily returned to their home country. According to the complainant, the refugees decided to return not individually but as a group and only after obtaining assurances about their security and reintegration into Mauritanian society.
7. The complainant claims that those refugees who left for Mauritania returned to Senegal because of threats they faced from Mauritanian authorities, the lack of assistance and the undisguised indifference of Mauritians concerning their situation. The complainant reiterates that the refugees continue to be handicapped by the fact that they do not possess green cards. The lack of this document prevents them for example from applying for employment within the Senegalese civil service.
8. The communication, however, does not indicate the provisions of the African Charter of Human and Peoples' the defendant State may have violated.

THE PROCEDURE

9. The communication was received by the Secretariat on 9 January 1997.
10. On 16 January 1997, the Secretariat informed the defendant State by note verbale about the substance of the communication. On the same day, it wrote to the complainant requesting it to state whether the information contained in its letter of 4 November 1996 was to be considered as a communication under the terms of article 55 of the Charter.
11. On 21 January 1997, the complainant replied in the affirmative to the question asked by the Secretariat.

12. On 27 February 1997, the Secretariat informed the complainant that its complaint had been recorded under number 162/97 and that it would be submitted to the Commission for a decision on its admissibility at the 21st ordinary session scheduled for April 1997.
13. On the same day, a note verbale was addressed to the defendant, informing it that the communication had been recorded and requesting it to submit its views about its admissibility.
14. On 19 March 1997, the Secretariat received a note verbale emanating from the Senegalese High Commission in the Gambia, acknowledging receipt of its note of 16 January 1997 and informing it that the dossier had been referred to the competent Senegalese authorities.
15. At the 21st session, the Communication was submitted to the Commission which decided to postpone consideration of its admissibility until the 22nd session to be held in November 1997.
16. On 13 June 1997, the Secretariat addressed a note verbale to the Ministry of Foreign Affairs of Senegal, informing it of the Commission's decision and requesting it to send its government's observations and arguments concerning this matter.
17. On 24 July 1997, the Secretariat received a note verbale from the Ministry of Foreign Affairs of Senegal containing the observations and arguments of its government on this matter.
18. On 25 July 1997, The Secretariat wrote to the complainant sending it a copy of the defendant's reply and requesting its own response. This response was received by the Secretariat on 6 October 1997.
19. At the 22nd session held from 2-11 November 1997, the Commission reached a decision on the question of admissibility.

THE LAW

ADMISSIBILITY

20. The Commission recalls that under the terms of the provisions of article 56 par. 5, communications shall be considered by the Commission if they "are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged".
21. In this case, it should be noted that the complainant avoids saying that it has not used the remedies supposed to be available to it under the legal system of the defendant State. Further, it simply presents facts which, prima facie, do not show that the Senegalese State may be responsible.
22. Further, the complainant does not mention the provisions of the Charter which the Senegalese State may have violated.

ON THESE GROUNDS, THE COMMISSION declares the communication inadmissible.

Decision taken at the 22nd session, Banjul (The Gambia), 11 November 1997.