

11 May 2000
Communication No. 133/94

**AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS Twenty-Seventh Ordinary
Session 27 April - 11 May 2000**

ASSOCIATION POUR LA DEFENCE DES DROITS DE L'HOMME ET DES LIBERTÉS

v.

DJIBOUTI

DECISION

BEFORE: CHAIRMAN: Professor E.V.O. Dankwa
VICE CHAIRPERSON: Mrs. Julienne Ondziel-Gnelenga
COMMISSIONERS: Professor Isaac Nguema, Dr. Hatem Ben Salem, Mr. Kamel
Rezag-Bara, Dr. Nyameko Barney Pityana, Mr. Andrew Ranganayi Chigovera, Mrs.
Vera Mlangazuwa Chirwa, Mrs. Jainaba Johm

Citation: Ass'n pour la Defence des Droits de l'Homme et des Libertés v. Djib., Comm. 133/94,
13th ACHPR AAR Annex V (1999-2000)

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 77 (2002); Documents of the African Commission on Human and Peoples'
Rights, Vol. 2, at 172 (Malcolm D. Evans & Rachel Murray eds., 2009) (2000)
AHRLR 80 (ACHPR 2000)

RAPPORTEUR

17th session: Commissioner Amega

18th session: Commissioner Ndiaye

19th session: Commissioner Ndiaye

20th session: Commissioner Beye

21st session: Commissioner Beye

22nd session: Commissioner Ben-Salem

23rd session: Commissioner Ben-Salem

24th session : Commissioner Ben-Salem

25th session : Commissioner Ben-Salem

26th session : Commissioner Ben-Salem

27th session : Commissioner Ben-Salem

SUMMARY OF FACTS:

1. The Communication is filed by "Association Pour la Defense des Droits de l'Homme et des Libertés", an NGO from Djibouti. The communication complains that there has been a series of human rights abuses against members of the Afar ethnic group committed by government troops in areas of renewed fighting with the FRUD, "Front pour la Restauration de l'Unité et de la Démocratie". The FRUD draws its support mainly from the Afar ethnic group. There are reports on extra-judicial executions, torture and rape. The communication names 26 people who have been executed, jailed without trial or tortured. Complaint:
2. The complainant alleges the violation of Articles 2, 3, 4, 5, 6, 7, 9, 10, 11, 12 and 13 of the African Charter by the government of Djibouti. Procedure:
3. The communication is dated 7th April 1994 and was received on 19 April 1994 at the Secretariat.
4. The Commission was seized of the communication at its 15th ordinary session, and the Ministries of External Affairs Justice of Djibouti were notified on the 29th of July 1994. The complainant was also notified of this decision.
5. On 26th of August 1994, the Secretariat invoked Rule 109 of the Rules of Procedure, i.e. asking the Government to avoid irreparable prejudice to the complainant or the victims.
6. On 21 October 1996, at the 20th session, the Commission received a letter from the complainant which demanded that the consideration of the communication be postponed to during negotiations with the government. The Commission agreed to this demand, particularly in the light of the fact that the communication had been given a new Rapporteur, who would like more time to study the file.
7. At the 22nd session held in Banjul, The Gambia from 2-11 November 1997, the communication was declared admissible.
8. On 11th February 1998, the Secretariat received a faxed Note Verbale from the Ministry of External Affairs and International Co-operation, with a declaration of the General Assembly of the Association pour la Défense des Droit de l'Homme et des Libertes, dated 25 May 1996, in which it decided to withdraw the communication due to the signing of a protocol with the government which objective was to bring about a lasting settlement to the demands of the civilian victims, refugees and displaced persons. The Secretariat acknowledged receipt of this Note Verbale on 20 February 1998.

9. The Secretariat contacted the complainant to confirm the veracity of the claimed compromise and the subsequent withdrawal of its complaint. This was done by letter dated 1 June 1998, which was never replied.
10. At its 25th session, the Commission mandated Commissioner Rezag-Bara to go to Djibouti and find an amicable solution to the dispute. At the same time, it deferred its decision on the merit to its 26th session, awaiting the outcome of the efforts of Commissioner Rezag-Bara.
11. During his mission from 26 February to 5 March 2000, Commissioner Rezag-Bara met with the of Djiboutian authorities and the complainant, which confirmed that an amicable settlement has already been concluded.
12. On 30 March 2000, the Secretariat received a letter signed by the President of the Association pour la Défense des Droits de l'Homme et des Libertés (Association for the Defence of Human Rights and Freedoms), Mr. Mohamed Moumed Soulleh, indicating that the disagreement which formed the basis for the communication under consideration had been amicably resolved between the parties. Mr. Houmed Soulleh concludes by requesting the Commission to take note of this settlement. Law Admissibility
13. Article 56(5) of the African Charter on Human and Peoples' Rights requires of any recourse to the Commission that the communications be sent "...after exhausting local remedies, if any unless it is obvious that this procedure is unduly prolonged".
14. At its 20th session, the Commission declared the communication admissible on grounds, among others, that the material content and effectiveness of the arrangements struck by between the parties remained unknown to it, as well as the results of the enquiries and judicial proceedings mentioned by the Respondent State in its correspondence dated 8 March 1995.
15. The case brought by the complainant is aimed at causing the Commission to declare and consider that the facts hereunder imputed to the Djiboutian armed forces and certain other agencies of the State constitute a series of violations by the Respondent State of various provisions of the Charter. The alleged wrongful acts are: the perpetration of attacks against unarmed civilians and who were thus no participants in the combats between the forces and the rebel movement Front pour la Restauration de l'Unité et de la Démocratie (in particular, summary and arbitrary executions, acts of mass rape, forced displacement and regrouping) arrests and preventive detention for periods exceeding the legal limit, etc.
16. For its part, the Respondent State transmitted to the Commission documents strongly suggesting that arrangements aimed at obtaining a lasting settlement of the demands of the victims of the violations blamed on the armed forces had been established, and consequently calls on the Commission to declare the communication inadmissible.
17. The meeting between the complainant and Commissioner Rezag-Bara while on mission to Djibouti, as well as the complainant's letter, received at the Secretariat on 30 March 2000, have clarified the situation and also confirmed the existence of the settlement reached between the two parties.

FOR THESE REASONS, THE COMMISSION decides to close the case on the basis of the amicable settlement reached by the parties.

Done in Algiers, Algeria on 11 May 2000.