

23 October – 6 November 2000
Communication No. 226/99

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
Twenty-Eighth Ordinary Session
23 October – 6 November 2000

UNION NATIONALE DES SYNDICATE AUTONOMES DU SENEGAL
v.
SENEGAL

DECISION

BEFORE: CHAIRMAN: E.V.O. Dankwa
VICE CHAIRMAN: K. Rezag-Bara
COMMISSIONERS: A. Badawi El Sheikh, Isaac Nguema, N. Barney Pityana,
H. Ben Salem, Florence Butegwa, A. Raganayi Chigovera, Vera M. Chirwa,
Jainaba Johm
Citation: Union Nationale des Syndicate Autonomes du Senegal v. Sen., Comm. 226/99,
14th ACHPR AAR Annex V (2000-2001)
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 328 (2002); (2000) AHRLR 290 (ACHPR
2000)

RAPPORTEUR

25th session: Commissioner Nguéma

26th session: Commissioner Nguéma

27th session: Commissioner Nguéma

28th session: Commissioner Nguéma

SUMMARY OF FACTS

1. The Complainant is a trade union congress Union Nationale des Syndicats Autonomes du

Sénégal (National Union of Autonomous Trade Unions of Senegal), known by its acronym UNSAS. It claims that on 20 July 1998, at 6:20 am, the Senegalese government caused the arrest of Mr. Mademba Sock, Secretary General of UNSAS and of the Syndicat Unique des Travailleurs de l'Electricité (SUTELEC), as well as 25 delegates and members of SUTELEC's executive. According to the Complainant, these arrests were effected in flagrant violation of labour freedoms. The detainees were kept for four days without the opportunity of communicating with their counsel or their relations. This, according to UNSAS, constitutes violation of the provisions of article 10 of the International Covenant on Civil and Political Rights, which is incorporated into Senegal's Constitution.

2. UNSAS and other unions, joined by broad sectors of the labour world, mobilised themselves to push for the release of the detainees and their return to their posts, as well as for the opening of negotiations with the government with a strong concern for preserving social peace. Since then, the peaceful demonstrations that have been regularly declared have been subjected to unwarranted prohibitions on the part of the public authorities and "fierce" repression, which has spared neither the head office of the union (regardless of the principle of inviolability of trade union premises, as recognised in ILO conventions), nor private residences.

3. The Complainant also states that the legal action brought against the detainees has yet to show any sign of respect for the right of access to defence counsel. In support of this view, the Complainant states that the court had upheld its demands when it ordered the results of the preliminary investigation to be set aside and for the case to be withdrawn. According to the Complainant, the presentation of the case before the criminal court for a judgement expected to be handed down by 15 October 1998 did not permit the exhaustion of all local remedies.

4. Without citing any specific provision of the African Charter on Human and Peoples' Rights, the Complainant, expresses the view that, in this case, the Commission should see to it that the socio-economic rights of the detainees and their families are respected.

PROCEDURE

5. The communication is dated 13th October 1998 and was received by the Secretariat at the 24th Ordinary Session.

6. On 11th January 1999, the Secretariat wrote to the Complainant to request information regarding the progress of the internal procedure. As of the date of the 25th Ordinary Session of the Commission, no feedback had been received.

7. On 16th April 1999, the Secretariat received registered mail from the Complainant dated 14th March 1999, to which was attached a copy of the Judgement of 8th December 1998 rendered by the Special Regional Court of Dakar acting as a Court of Summary Jurisdiction. This letter reported on the progress of local remedies. It was unfortunately only received by the Secretariat after the filing of the relevant documents to be submitted to the 25th Session and could not therefore be taken into account.

8. A reading of the judgement and correspondence mentioned above highlights the following:

- a) The Special Regional Court decided to discharge the accused with regard to the charges of damaging and conniving to damage public utility electrical installations belonging to the Société Nationale d'Electricité (SENELEC) as well as the charge of hindering the free exercise of industry or labour.
- b) The same Court convicted Mr. Sock for “acts or manoeuvres likely to compromise public security” and sentenced them to a prison term of six (6) months.
- c) Mr. Sock submitted his appeal against the judgement.
- d) After having served his sentence including four and half months of pre-trial detention, Mr. Sock was released on 23rd January 1999.

9. The Complainant asserts that the judgement of the Special Regional Court is founded on a description of the facts on the basis of the wide provision of Section 80 of the old Senegalese Penal Code. According to the Complainant, Mr. Sock is a victim of a “conspiracy” geared towards destabilising and weakening SUTELEC.

10. At its 26th ordinary session, the Commission deferred the communication to the 27th ordinary session.

11. At its 27th ordinary session held in Algeria, the Commission deferred consideration of the case to the 28th session.

12. On 20th July 2000, parties were informed of the Commission's decision accordingly.

LAW

ADMISSIBILITY

13. Article 56 (5) of the Charter provides:

“Communications...shall be considered if they: ... are sent after exhausting local remedies, if any, unless, it is obvious that this procedure is unduly prolonged.”

14. Although the communication presents a prima facie case of series of violations of the African Charter a close look at the file indicates that the Complainant is yet to exhaust all domestic remedies.

FOR THE ABOVE REASON

The Commission declares the communication inadmissible.

Done at the 28th ordinary session held in Cotonou, Bénin from 23rd October to 6th November 2000.