

**Communication 425/12- Legal Defence and Assistance Project (on behalf of Mr.
Abiodun Subaru) v. The Federal Republic of Nigeria.**

52nd Ordinary Session

16th Extra-Ordinary Session

Summary of the Complaint

1. The Complaint was received by the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) on 2 October 2012. The Complaint is filed by Legal Defence and Assistance Project (the Complainant) on behalf of Mr. Abiodun Subaru (the Victim) against the Federal Republic of Nigeria (the Respondent State¹), a State Party to the African Charter.
2. The Complainant alleges that on 29 August 2009, the Victim was sleeping in his house in Lagos State, Nigeria, when four officers of the Nigerian Police Force stormed his house and arrested him. The Police officers broke his door and had in their company, his neighbor and friend called Mr. Hope Ufot. The police officers asked him whether he knew the said Hope Ufot, to which he answered in the affirmative.
3. The Complainant further alleges that the Police officers immediately handcuffed the Victim and took him to the Police Station. While at the Police station, the Victim was informed that there had been a robbery incident at a neighboring house. The Victim was informed that Hope Ufot was the first suspect and that since he and Ufot were friends, they suspected that he knew something about the

¹ The Federal Republic of Nigeria ratified the African Charter on 22 June 1983.

robbery. The Complainant states that the Victim denied knowledge of the incident and refused to sign a confessional statement.

4. The Complainant avers that in the course of interrogation by the Police officers, the Victim was subjected to torture. He was beaten with a wooden baton and cutlass on his back and hands, thereby inflicting deep injuries; and an engine block was placed on his back causing him to defecate involuntarily.
5. The Complainant states that on 31 August 2009, the Victim was brought before a Magistrate Court in Lagos, together with Ufot, on charge of conspiracy to commit armed robbery and was remanded in Ikoyi Prison, pending the advice of the Directorate of Public Prosecution (DPP) of Lagos State on his case. The Complainant further states that the Victim was merely brought before the Magistrate Court for the sole purpose of remanding him in prison as Magistrate Courts in Nigeria do not have jurisdiction to try capital offences. Armed robbery is an offence punishable with death under the Criminal Code Law of Lagos State and the Robbery and Firearms (Special Provision) Act. The Complainant alleges that the Victim has been in prison since then and has not been brought to Court till date.
6. The Complainant avers that by virtue of section 35 (4) and (7) of the Constitution of the Federal Republic of Nigeria, 1999 (Nigerian Constitution), persons arrested upon suspicion of committing offences other than capital offences must be brought before a court of law within three (3) months or be released unconditionally or on bail; but however, that persons arrested upon suspicion of committing capital offences (such as the Victim) do not have to be taken to court within the three (3) months period. They are also not entitled to bail, and in the absence of any obligation requiring the State to conclude criminal proceedings

instituted against them, most of them, including the Victim, may remain in detention for long periods of time before their trials are concluded.

7. The Complainant alleges that it is therefore not possible for accused persons such as the Victim to constitutionally challenge their detention for indefinite periods of time since their detention is sanctioned by the Nigerian Constitution which is supreme. The Complainant further alleges that Nigerian Courts have consistently held that in the event of a conflict between the African Charter and the Nigerian Constitution, the latter prevails.

Articles alleged to have been violated

8. The Complainant alleges that Articles 1, 2, 3,4,5,6 and 7(1) of the African Charter have been violated by the Respondent State.

Procedure

9. The Secretariat received the Complaint on 2 October 2012.
10. At its 52nd Ordinary Session which took place from 9-22 October 2012, in Yamoussoukro Cote d' Ivoire, the African Commission on Human and Peoples' Rights (the Commission) considered the Communication and decided to be seized thereof.
11. By letter and Note Verbale dated 5 November 2012, the Secretariat respectively informed the Complainant and the Respondent State of the seizure decision and forwarded the Complainant to the Respondent State.

12. By email dated 21 December 2012, the Complainant forwarded its submissions on Admissibility of the Communication.
13. By letter and Note Verbale dated 4 January 2013, the Secretariat respectively acknowledged receipt of the submission of the Complainant on Admissibility and forwarded same to the Respondent State, requesting the latter to forward its submission on Admissibility within 2 months of notification, in accordance with Rule 105(2) of the Rules of Procedure of the Commission.
14. By letter and Note Verbale dated 30 April 2013, the Secretariat informed the Complainant and Respondent State that the deadline for submission by the Respondent State on Admissibility had passed and that the Commission at its 53rd Ordinary Session which took place in Banjul, The Gambia, from 9 to 23 April 2013, had decided to proceed to a determination on the Admissibility of the Communication on the basis of the available information.
15. On 16 April, 2014 and 29 May 2014, both parties were both informed that at its 15th Extra-Ordinary Session and 55th Ordinary Session respectively, the Commission decided to defer the consideration of the Communication to its next Session.
16. At its 16th Extra-Ordinary Session, held in Kigali, Rwanda, from 20 - 29 July 2014, the Commission considered the Admissibility of the Communication.

The Law on Admissibility

Complainant's Submission on Admissibility

17. The Complainant submits that with the exception of the requirement under Article 56 (5) of the African Charter which the Commission is requested to dispense with, all other conditions necessary for a Communication to be declared Admissible under the African Charter have been complied with.
18. The Complainant submits that local remedies are essentially non-existent and such remedies as may exist are unduly prolonged. In this regard, the Complainant relies on two points:
- i. the exclusion of persons detained on suspicion of committing a capital offence from the statutory timelines for trial under section 35(7) of the Nigerian Constitution, amounts to the non-existence of local remedies;
 - ii. the delay by the DPP Lagos State, in issuing legal advice on whether the Victim has a case to answer, for over 3 years, as well as the delay in hearing the two cases filed by the Complainant on behalf of the Victim at the Federal High Court, Ikoyi, Lagos, have unduly prolonged attempts at exhausting local remedies.
19. The Complainant states that article 56(5) establishes that a Communication should be sent after exhausting all local remedies, if any, unless it is obvious that this procedure is unduly prolonged. The Complainant submits that in the instant case, local remedies are essentially non-existent, and that such remedies as may exist are unduly prolonged. The Complainant cites the cases of *Sir Dawda K.*

Jawara v The Gambia and The Social and Economic Rights Action Centre v Nigeria, where the Commission held that “such remedies as do exist at the domestic level must be ‘available, effective and sufficient’² such that “if the right is not provided for, there cannot be effective remedies, or any remedies at all”³.

20. The Complainant states that with respect to arrest and detention without trial within a reasonable time, the Nigerian Constitution does not protect the rights of persons arrested and detained on suspicion of committing a capital offence, it only guarantees the right in respect of suspects arrested and detained on allegations of committing any offence other than a capital offence. Therefore the local remedies for violations of this right for persons like the Victim are not available before the courts in Nigeria.

21. The Complainant avers that for the purposes of clarity, **section 35(4) of the Nigerian Constitution** provides that:

“any person who is arrested or detained in accordance with subsection (1)(c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of:

- (a) Two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or*
- (b) Three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released*

² Communication 147/95 - *Jawara v The Gambia* (2000) ACHPR, para 32.

³ Communication 155/96- *The Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights (CESR) v Nigeria*, paragraph 37.

either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date”.

While **section 35(7) of the Nigerian Constitution** provides as follows:

“Nothing in this section shall be construed;-

(a) In relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence”.

22. The Complainant submits that in the face of section 35(7) of the Nigerian Constitution, persons such as the Victim may remain in pre-trial detention for long periods of time. It also submits that Nigerian Courts have consistently held that in the event of a conflict between the provisions of the Nigerian Constitution and that of the African Charter, the provisions of the Constitution will prevail.

23. To buttress its contention, the Complainant cites the cases of *General Sanni Abacha & 4 Others vs. Chief Gani Fawehinmi*⁴ and *Vayola Sears & Anor v. Attorney General of the Federation & Anor*⁵ in which the Supreme Court of Nigeria and the Federal High Court held respectively that the African Charter is not superior to and does not override the Nigerian Constitution. In particular, the Federal High Court held in the latter case that:

“it is the African Charter or any international treaty promulgated into Nigerian laws that must be consistent with the Constitution and not the other way around. Under section 1(3) of the Constitution, if any other law is inconsistent with the

⁴(2000) 6 NWLR (pt.660) pg.228 P.289.paras E-F

⁵(Unreported) Suit No FHC/L/CS/547/2003.

provision of the Constitution, it is the Constitution that shall prevail and such other law shall be void to the extent of the inconsistency. The African Charter cannot therefore be invoked to enforce inconsistency. The African Charter cannot therefore be invoked to enforce a right, which the Constitution has denied the 2nd Plaintiff/Applicant...the provisions of Section 26(2)(a) of the Constitution of the Federal Republic of Nigeria 1999 are superior to and cannot be in breach of the ...the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 Laws of the Federal Republic of Nigeria 1990 and that the said African Charter cannot be invoked to enforce a right which the Constitution had denied the 2nd Plaintiff/Applicant."

24. The Complainant submits that it is therefore not possible for accused persons such as the Victim to constitutionally challenge their detention for indefinite periods of remand since their detention is sanctioned by the Nigerian Constitution which is supreme⁶.
25. The Complainant also states that Article 56(5) of the African Charter makes it clear that complainants need not exhaust local remedies if the procedure is "unduly prolonged" owing to the length of time taken before the domestic courts⁷. It contends that the Inter-American system also has a similar exception to the exhaustion of local remedies rule, and has thereby found a delay of three (3) years and six (6) months,⁸ and of twenty (20) months⁹ after the institution of proceedings to be undue delay."

⁶ Section 1 (1) of the Nigerian Constitution provides: "This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria." Section 1 (3) further provides: "If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void."

⁷ Communication 204/97, Mouvement Burkinabe des droits de l'Homme et des Peuples vs. Burkina Faso, Fourteenth Annual Activity Report, paragraphs 4, 14 and 36

⁸ Report 14/89, Case 9641 (Ecuador), 12 April 1989, Annual Report of the Inter-American Commission on Human Rights 1988-1989, OEA/Ser.LV/II/76, Doc. 10, 104-15

26. The Complainant submits that more than three (3) years after the Victim was arrested and detained on allegation of committing a capital offence, the DPP Lagos State is yet to give legal advice on his case. This has stalled his arraignment and trial before the State High Court (if the advice states that he has a case to answer) for proper determination of the charge against him. The Complainant has by its letters made series of applications for the outcome of legal advice on the Victim's case to the DPP.
27. The Complainant further submits that in an attempt to exhaust local remedies, it had filed two different suits at the Federal High Court, Ikoyi Lagos-Nigeria on behalf of the Victim on 4 October 2011 and 17 October 2011, respectively, in *Suit Nos. FHC/L/CS/1223/2011 and FCH/L/CS/1142/2011*. Both cases have not been heard until now as a result of numerous adjournments and delays inherent in the Nigerian Judicial system, and are pending before the Federal High Court.
28. The Complainant avers that the first case filed was for the enforcement of the Victim's fundamental human right against the torture, cruel and inhumane treatment meted to him by Police officers of Nigeria⁹. The second case filed by the Complainant challenges the propriety of section 35(7) (a) of the Nigerian Constitution, which excludes the arraignment/trial of persons detained on suspicion of having committed a capital offence from the statutory timelines provided under section 35(4), for being inconsistent with the provisions of section 35(4) and 36(5) of the same Constitution and the African Charter¹¹.

⁹ Report 1a/88, Case 9755 (Chile), 12 September 1988, Annual Report of the Inter-American Commission on Human Rights, 1987-1988, OEA/Ser.L/V/II/74, Doc. 10 rev.1, 132-9

¹⁰ Suit No. FHC/L/CS/1223/2011 of 4 October 2011.

¹¹ Suit No FHC/L/CS/1142/2011 of 17 October 2011.

29. The Complainant submits that notwithstanding the pendency of the above law suits, the consequential order of release, the only remedy the Victim should be entitled to, is not locally available to him by virtue of the provisions of section 35(7)(a) of the Nigerian Constitution. The said provision, as indicated above, empowers the Nigerian Government to detain the Victim or any person arrested on suspicion of committing a capital offence indefinitely without a trial or arraignment as the State may deem fit.
30. The Complainant further submits that the detention of the Victim for over three (3) years from 29 August 2009 to date without arraignment or trial in a court of competent jurisdiction amounts to undue delay and in effect his trial/arraignment has been unduly prolonged. Therefore, it argues that because local remedies are essentially nonexistent and attempts at those that exist are unduly prolonged, the conditions of article 56(5) of the Charter are complied with and therefore the Communication is admissible.

Respondent State's Submission on Admissibility

31. The Secretariat did not receive any submission from the Respondent on Admissibility of the Communication despite the request sent to it by the Secretariat in accordance with the Rules of Procedure.
32. The Commission recalls its jurisprudence that where a State Party fails to submit its observations in accordance with the Rules of Procedure, the Commission has no option but to proceed to consider Communications on the basis of the submission of the Complainant(s) and the information at its disposal.¹²

¹² Communication 155/96 and 159/96- *Social and Economic Rights Action Center, Center for Economic and Social Rights vs. Federal Republic of Nigeria*, para 40; *Union Inter Africaine des Droits de l'Homme, Federation Internationale des Ligues des Droits de l'Homme, Rencontre Africaine des Droits de l'Homme, Organisation*

33. In the light of the Respondent State's failure to submit on the Admissibility of the Communication, the Commission has no option but to proceed with consideration of the Communication on Admissibility based solely on the Complainant's submission on Admissibility.

The Commission's Analysis on Admissibility

34. The Admissibility of Communications brought under Article 55 of the African Charter is governed by the requirements of Article 56 of the African Charter which provides for seven requirements to be cumulatively met before a Communication can be declared Admissible.¹³ If any of the requirements set out in this Article are not met, the Commission declares the Communication Inadmissible unless the Complainant provides sufficient justifications as to why such requirements could not be met.

35. The Complainant submits that all the conditions under article 56 of the Charter have been fulfilled, with the exception of the requirement under Article 56 (5) of the African Charter which the Commission is requested to dispense with because according to the Complainant, local remedies are essentially non-existent and attempts to exhaust those that exist are unduly prolonged.

36. By its own assessment and on the basis of the unchallenged available information, the Commission finds that the requirements for Admissibility set

Nationale des Droits de l'Homme au Sénégal and Association Malienne des Droits de l'Homme v Republic of Angola para 10; *Communication 292/04, Institute for Human Rights and Development in Africa (on behalf of Esmaila Connateh and 13 others) v Angola*, para 34.

¹³ See *Communication 304/2005 - FIDH, National Human Rights Organization (ONDH) and Rencontre Africaine pour la Defense des Droits de l'Homme (RADDHO) v Senegal* (2006) ACHPR para 38; *Communication 275/2003 - Article 19 v Eritrea* (2007) ACHPR para 43.

out in Article 56 (1), (2), (3), (4) and (7) have been satisfied. Accordingly, the Commission's analysis will focus on determining whether the case falls within the exceptions to the requirement in Article 56 (5) as contended by the Complainant, and consequently, whether the related requirement in Article 56(6) of the African Charter has been satisfied.

37. Article 56(5) of the African Charter states that 'Communications relating to human and peoples' rights... shall be considered if they: are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged'. In the present case, the Complainant invokes the exceptions to the requirements in Article 56(5), on the grounds that local remedies are essentially non-existent, and that such remedies as may exist are unduly prolonged.

38. Specifically, the Complainant argues that the Nigerian Constitution does not protect the rights of persons arrested and detained on suspicion of committing a capital offence, such as the Victim, as they are excluded from the statutory timelines for trial by section 35(7) of the Nigerian Constitution. It submits that as a result of this exclusion, the local remedies for violations of this right for this category of persons are not available before the courts in Nigeria, and that they remain in pre-trial detention for long periods of time, because it is not possible for them to constitutionally challenge their detention for indefinite periods of remand since such detention is sanctioned by the Nigerian Constitution, which is supreme.

39. The Complainant therefore contends that the exclusion of persons detained on suspicion of committing a capital offence such as the Victim from the statutory timelines for trial, by section 35(7) of the Nigerian Constitution amounts to the non-existence of local remedies.

40. Furthermore, the Complainant has informed the Commission that in an attempt to exhaust such local remedies as may exist, it has filed two different suits at the Federal High Court of the Respondent State, on behalf of the Victim; both of which have not been heard to date as a result of numerous adjournments and delays inherent in the Nigerian Judicial system, and as such both suits are still pending.
41. The Complainant also argues that despite the delay by more than three (3) years after the Victim was arrested and detained on allegation of committing a capital offence, the DPP, Lagos State, is yet to give legal advice on his case despite series of letters of application made by the Complainant for legal advice on the Victim's case. This Complainant further argues that this stalled the Victim's arraignment and trial before the State High Court for proper determination of the charge against him.
42. The Complainant therefore submits that the detention of the Victim for over three (3) years from 29 August 2009 to date without arraignment or trial in a court of competent jurisdiction amounts to undue delay and in effect his trial/arraignment has been unduly prolonged. Therefore, because local remedies are essentially non-existent and attempts at those that exist are unduly prolonged, the conditions of article 56(5) of the Charter have been complied with.
43. The issue to be determined at this point is whether the grounds relied upon by the Complainant suffice for an exemption of the requirement of exhaustion of local remedies as prescribed by Article 56(5) of the Charter? In this regard, the Commission recalls that it has expounded on this principle in its jurisprudence, stating that this requirement is based on the principle that "the respondent state

must first have an opportunity to redress by its own means within the framework of its own domestic legal system, the wrong alleged to have been done to the individual.”¹⁴

44. The Commission has also defined a local remedy as “any domestic legal action that may lead to the resolution of the complaint at the local or national level”¹⁵, and has stated that “the *internal remedy* [to] which article 56(5) refers entails remedy sought from courts of a judicial nature...”¹⁶. That being said, the Commission has consistently held that the requirement to exhaust local remedies does not apply where such remedies are “unavailable or ineffective”¹⁷ or where they are “unduly and unreasonably prolonged”.¹⁸ A remedy is considered available if the Complainant can pursue it without impediment, it is deemed effective if it offers a prospect of success, and it is found sufficient if it is capable of redressing the complaint”.¹⁹

45. In the light of its highlighted jurisprudence, the Commission notes that indeed, as contended by the Complainant, the combined reading of sections 35(4) and 35(7) of the Nigerian Constitution excludes persons arrested for committing a capital offence from the enjoyment of the right to be brought before a Court of law within a reasonable time or in the alternative, be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

¹⁴ Communication 71/92 - *Rencontre Africaine pour la Defence des Droits de l'Homme (RADDHO) v. Zambia*, (1997) ACHPR, para 10.

¹⁵ Communication 299/05: *Anuak Justice Council v. Ethiopia* (2006) ACHPR para 50.

¹⁶ Communication 221/98 - *Alfred B. Cudjoe vs. Ghana* (1999) ACHPR para 14.

¹⁷ Communication 275/03 - *Article 19 v Eritrea*, (2007) ACHPR para 46; Communication 147/95 - *Jawara v The Gambia* (2000) ACHPR, para 32.

¹⁸ *Article 19 v Eritrea*, fn 17 above, para 48.

¹⁹ *Jawara v The Gambia*, fn 17 above.

46. Consequently, the Commission agrees with the argument of the Complainant that the exclusion of persons detained on suspicion of committing a capital offence from the statutory timelines for arraignment for trial, by section 35(7) of the Nigerian Constitution, means that the remedy which the Victim should be entitled to – that is, to be brought before a court of law within a reasonable time or be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date – is not available to him. In this regard, the Commission refers to its position in *SERAC and CESR vs. Nigeria*, where it held that “[i]f a right is not well provided for at the domestic level, there cannot be effective remedies, or any remedies at all”.²⁰
47. Furthermore, the fact that the indeterminate detention is sanctioned by the Constitution of the Respondent State, would also appear to make it impossible for the Victim to have recourse to relevant remedies as may exist under Nigerian law such as *habeas corpus* or *mandamus*, as the wordings of the relevant Constitutional provisions, as well as the case laws cited by the Complainant, imply that there is no recourse within the Nigerian legal system for challenging the indeterminate detention. The Commission notes that this view is consistent with its earlier position in *Civil Liberties Organisation, Legal Defence Centre, Legal Defence and Assistance Project vs. Nigeria*²¹.
48. The Commission also notes the second ground relied upon by the Complainant for exception from the requirements of Article 56(5), whereby it contends that such local remedies as may exist have been unduly prolonged, for the reasons that the two different suits that it has filed before the Federal High Court of Nigeria on behalf of the Victim, in an attempt to exhaust local remedies, have not

²⁰ *SERAC & CESR vs. Nigeria* (fn 3 above) ACHPR para 37.

²¹ Communication 218/98: *Civil Liberties Organisation, Legal Defence Centre, Legal Defence and Assistance Project vs. Nigeria* (2001) ACHPR para 23.

been heard to date as a result of numerous adjournments, and also that despite series of applications, the DPP Lagos State, has failed to issue legal advice on whether the Victim has a case to answer, for over 3 years.

49. In this regard, the Commission notes that the local remedies contemplated under Article 56(5) of the Charter entail remedies of a judicial nature²², and that the DPP's delay in issuing legal advice on whether the Victim has a case to answer or not, is indicative of the failure of the Respondent State to take the necessary measures for giving the victim access to justice, and further serve to perpetuate his lack of access to domestic remedy.

50. Also, concerning the law suits filed, the Commission notes that the Complainant has indicated that the pending law suits would also not result in the consequential order of release, which would be the only remedy that would have been capable of redressing the complaint of the Victim, and to this end buttresses the fact that local remedy is not available to the Victim.²³

51. For the above reasons, the Commission accordingly considers that the requirement to exhaust local remedies must be dispensed with, on account of the fact that local remedies do not exist, and consequently holds that the Complainant has satisfied the requirements of Article 56(5) of the African Charter.

52. Regarding Article 56(6) of the African Charter which states that *Communications ... received by the Commission shall be considered if they... are submitted within a reasonable period from the time local remedies are exhausted, or from the date the Commission is seized with the matter".*

²² Communication 221/98 - *Alfred B. Cudjoe vs. Ghana* (1999) ACHPR para 14.

²³ Communication 307/05 *Obert Chinhamo v. Zimbabwe* (2007), para 54

53. In **Dr. Farouk Mohamed Ibrahim (represented by REDRESS) v. Sudan**²⁴, the Commission had held that the “reasonable period” *“is computed from the time when the Communication was submitted to the Commission after exhaustion of local remedies, or when the Complainant immediately realizes that local remedies are not available, sufficient or effective”*.
54. As regards what constitutes a “reasonable period”, the African Charter does not specifically state what this means, and thus, the Commission has always ruled based on the contexts and characteristics of each case.²⁵
55. Furthermore, in *Darfur Relief and Documentation Centre v. Sudan*, the Commission had indicated that the aim of “the provision of the Charter regarding time limit in Article 56(6) *“is to make a party complaining of a wrong done by a State, to be vigilant and to discourage tardiness from prospective complainants. However, where there is a good and compelling reason why a complainant does not submit his complaint to the Commission for consideration, the Commission has a responsibility, for the sake of fairness and justice, to give such a complainant an opportunity to be heard.”*²⁶
56. In the present case, while a period of more than three (3) years had elapsed after the Victim was arrested and detained before the Communication was filed, the Commission notes that the Complainant had not rested its oars during this period, but had continuously, throughout the period, explored other domestic avenues for seeking redress for the Victim, by making series of applications to

²⁴ Communication 386/10 : Dr. Farouk Mohamed Ibrahim (represented by REDRESS) v. Sudan (2013), para 71.

²⁵ Southern Africa Human Rights NGO Network and Others vs. Tanzania para 68. See also Communication 310/05 - Darfur Relief and Documentation Centre vs. Sudan (2009) ACHPR, para 75.

²⁶ Communication 310/05 (as above), para 79.

the DPP Lagos State to issue legal advice on whether the Victim has a case to answer, and by filing the two referenced suits before the Federal High Court of Nigeria on behalf of the Victim.

57. To this end, the Commission finds that the Complainant had not been tardy in filing the Communication, and hence holds that the requirement of Article 56(6) has been fulfilled.

Decision of the Commission on Admissibility

1. In view of the above, the African Commission on Human and Peoples' Rights:
 - i. Declares this Communication Admissible in accordance with Article 56 of the African Charter;
 - ii. Adjourns the consideration of the Communication for the parties to make their submissions on the Merits in accordance with Rule 107(2) of its Rules of Procedure; and
 - iii. Requests the Complainant to forward its submissions on the Merits within sixty (60) days of notification pursuant to Rule 108(1) of the Rules of Procedure.

**Done in Kigali, Rwanda, during the 16th Extra-Ordinary Session, held from 20 to 29
July 2014**