


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, TheGambia Tel: (220) 4410505 / 4410506; Fax: (220) 4410504 E-mail: au-banjul@africa-union.org; Web www.achpr.org		

Communication 612/16

Ahmed Mohammed Aly Subaie

v.

Arab Republic of Egypt

*Adopted by the
African Commission on Human and Peoples' Rights
during the 60th Ordinary Session, from 08th to 22nd May 2017
Niamey, Niger*

F. P. Tlakula

Commissioner Faith Pansy Tlakula
Chairperson of the African Commission
on Human and Peoples' Rights



Dr. Mary Maboreke

Dr. Mary Maboreke
Secretary to the African Commission on
Human and Peoples' Rights

Decision of the African Commission on Human and Peoples' Rights on Strike-out

Communication 612/16 -Ahmed Mohammed Aly Subaie v. Arab Republic of Egypt

Summary of the Complaint:

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat), received a complaint on 23 March 2016 from the Organisation of European Alliance (AED), Justice for Human Rights (JHR), Aman Organisation, Khadija Mohammed Khaled Abu Hein, and one other individual who sought anonymity (the Complainants), on behalf of Ahmed Mohammed Aly Subaie (the Victim).
2. The Complaint is submitted against the Arab Republic of Egypt (Respondent State), State Party to the African Charter on Human and Peoples' Rights (the African Charter).¹
3. The Complainants provide a brief background of the political situation in the Respondent State, including the "coup" of 3 July 2013, which they allege "violated all human rights and sought to eliminate a specific sector of the Egyptian society." They add that the sector targeted is that which opposed the "coup".
4. The Complainants allege that "coup leaders committed discriminatory segregation against a sector of Egyptians through killing, enforced disappearances, and torturing prison inmates". They further allege that the Respondent State denied detainees fair trial rights.
5. The Complainants submit that the Victim is amongst many Egyptians whose rights were violated by the Respondent State. The Complainants indicate that the Victim was born in 1975, and is married with two children.
6. The Complainants aver that the Victim was abducted on 4 October 2013 and that he was deprived of minimum detainee rights, denied a lawyer, and "denied normal judge to conduct the trial".
7. The Complainants allege that the "coup authority" fabricated many charges against the Victim in relation to organising the Rabi'a sit-ins, in Case Number 5 of 2014 Criminal Supreme State Security and 2210 of 2014 Criminal El Agouza. The Complainants state that the fabricated charges include false rumours about the internal situation of the country; spreading false images of deaths and injuries of protestors; false broadcast to stir up public opinion at home and abroad about the situation in Egypt; incitement against state

¹ Egypt ratified the African Charter on Human and Peoples' Rights (the African Charter) on 20 March 1984.



- institutions, armed forces and the police; "the use of websites as a means of communication"; and belonging to an outlawed group.
8. The Complainants submit that on 11 April 2015, 14 people were sentenced to death by hanging and 37 others were sentenced to life imprisonment, including the Victim. They add that on 2 December 2015, the Court of Cassation overturned the Criminal Court's decision and ruled that the case be referred to another department so it could be separated.
 9. The Complainants submit that the Victim was subjected to "the worst kind of torture in Scorpion Prison", a high security Prison also known as "the cemetery of prisoners". The Complainants aver that the Victim was detained "in a tiny isolation cell with poor ventilation, containing no bed. He slept on the floor.... He was denied food for several days, prevented from being visited, denied medication, denied access to clean water ...and denied any contact with his family or a lawyer."
 10. The Complainants allege that the Victim requires medical care, because he was injured following his arrest, and suffers from a number of medical conditions including "severe infections in limbs and nerves and inflammation of the stomach and severe roughness vertebrae in the neck and back."
 11. The Complainants submit that the Victim was denied visitation for several months, and when he was finally allowed visitation by his family, there were a number of restrictions.
 12. The Complainants contend that "national means to exhaust domestic remedies after the coup has become impossible". They indicate that the "ruling dictatorship" seeks to punish all those who participated in demonstrations. They add that "court sentences have become politicised".
 13. The Complainants indicate that the Complaint has not been submitted to any other international mechanism.

Articles alleged to have been violated:

14. The Complainants allege violation of Articles 1, 2, 3, 4, 5, 6, 7, 8 and 19 of the African Charter.

Prayers:

15. The Complainants request the African Commission on Human and Peoples' Rights (the African Commission) to:
 - a. Request an order of urgency to compel the Egyptian regime to halt all forms of torture and to release the victim promptly;



- b. Rule that the Egyptian regime is discriminatory because it has committed crimes of racial segregation, mass killings of human beings; enforced disappearance; crimes of eliminating the indigene; torturing of the oppositions; violation of rights of prisoners; violating rights of women and children; violating rights of detainees and denying them justice;
- c. Decide that the Egyptian authorities must comply by ending all these crimes and all the practices they carry out against humanity. And prosecute persons responsible for the fabricated charges, the enforced disappearance and torture;
- d. Rule that the Egyptian authorities must award compensation to the Victim for all that has been committed against him and pay compensation in the amount of fifty million U.S. Dollars; and
- e. Ask for the formation of an international court with neutrality and integrity to be based outside Egypt for the trial of the complainant and others because the Egyptian justice system has become devoid of the principles of universal justice and most particularly of independence and impartiality.

Procedure:

16. The Secretariat received the Complaint on 23 March 2016, and acknowledged receipt of the same on 31 March 2016.
17. The Commission considered the Complaint and seized the Communication during its 58th Ordinary Session, held from 6 to 20 April 2016, in Banjul, The Gambia. The Parties were informed by letter and Note Verbale dated 19 April 2016. The letter dated 19 April 2016 also requested the Complainant to forward its submissions on the Admissibility of the Communication within two (2) months of notification (that is, **19 June 2016**) in accordance with Rule 105 (1) of the Commission's Rules of Procedure.
18. By Note Verbale and letter dated 23 June 2016, the parties were informed of the status of the Communication following the Commission's 20th Extra-Ordinary Session, held from 9 to 18 June 2016, in Banjul, The Gambia. The letter to the Complainants again indicated that consideration of the Communication was deferred pending receipt of their Submissions on Admissibility.
19. The parties were informed of the status of the Communication following the Commission's 59th Ordinary Session, held from 21 October to 4 November 2016, and the 21st Extra-Ordinary Session, held from 23 February to 4 March 2017, by Notes Verbale and letters dated 15 November 2016 and 16 March 2017 respectively. The said letters again reminded the Complainants that



consideration of the Communication was deferred pending receipt of their Submissions on Admissibility.

20. On 12 April 2017, one of the Complainants was given the hard-copies of the letters dated 15 November 2016 and 16 March 2017 for which he signed to acknowledge receipt.

Analysis of the African Commission on Strike-out:

21. Rule 105 (1) of the Rules of Procedure of the Commission, establishes that when the Commission has decided to be seized of a Communication, it shall request the Complainant to present arguments on Admissibility within two (2) months.
22. Rule 113 of the Commission's Rules of Procedure provides that when a deadline is fixed for a particular submission, either party may apply to the Commission for extension of the period stipulated. The Commission may grant an extension of time for a period not longer than one (1) month.
23. To date, and eleven (11) months after the stipulated deadline, the Complainant has not submitted its Arguments on Admissibility, nor has it requested for an extension of time to submit.
24. Consequently the Commission does not have sufficient information upon which to make a determination on the Admissibility of the Communication.
25. The Commission had in such instances struck-out Communications for lack of diligent prosecution by the Complainants, including in *Communication 407/11- Artur Margaryan and Artur Sargsyan v. Republic of Kenya*, *Communication 387/10 - Kofi Yamagnane v. Togo*, and *Communication 427/12 - SERAP (on behalf of Daniel Nsofor and Osayinwinde Agbomien) v. Nigeria*.

Decision of the African Commission on Strike-out:

26. In view of the above, the Commission decides to strike out the Communication for lack of diligent prosecution.

**Done in Niamey, Republic of Niger this 60th Ordinary Session held from 8 to 22
May 2017**

