

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
Twentieth Ordinary Session
21-31 October 1996

MONJA JOANA
v.
MADAGASCAR

DECISION

BEFORE: CHAIRMAN: Prof. Isaac Nguema
VICE CHAIRMAN: Prof. Emmanuel V.O. Dankwa
COMMISSIONERS: Mr. Robert H. Kisanga, Dr. Mohamed H. Ben Salem, Dr. Vera V. Duarte Martins, Prof. U. Oji Umzurike, Mr. Atsu Koffi Amega, Mr. Kamel Rezzag-Bara, Mrs. Julienne Ondziel-Gnelenga, Mr. Youssoupha Ndiaye, Mr. Alioune Blondin Beye

Citation: Joana v. Madag., Comm. 108/93, 10th ACHPR AAR Annex X (1996-1997)
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 152 (2002); Documents of the African Commission on Human and Peoples' Rights, at 573 (Malcolm D. Evans & Rachel Murray eds., 2001); (2000) AHRLR 141 (ACHPR 1996)

THE FACTS

- [1] The complainant was a citizen of Madagascar, who was a prominent political figure and had been a candidate for president. He was arrested on 1 June 1993 under a special decree, which provided for his detention for an indefinite period of time without being told the reason and without the right to appear before a judge. His sons were also arrested.
- [2] According to the court judgment of 17 December 1993, the complainant is guilty of trespass in government buildings and acquisition of arms without authorization. He was given a one-year suspended sentence. His sons were acquitted. The communication does not include his address.

PROCEDURE

- [3] The communication is dated 20 July 1993. The state concerned was notified by mail on 6 January 1994.

[4] The Commission proceeded to examine the necessary facts in order to be sure that the United Nations Human Rights Committee had not been seized of the same communication and in order to try to know the address of the complainant.

[5] The information received revealed that this case had not been submitted to the United Nations and that the complainant had died.

THE LAW

ADMISSIBILITY

[6] Article 56.1 of the Charter requires that communications presented pursuant to Article 55 indicate their author, even if the author has requested anonymity. The Commission must be in communication with the author, to know his identity and status, to be assured of his continued interest in the communication and to request supplementary information if the case requires it. This is reflected in Rule 104 of the Rules of Procedure of the Commission.

[7] In the past, the Commission made decisions on the admissibility in the case where the requirements of Article 56.1 had not been fulfilled.

[8] The Commission closed communication 62/92 (Committee for the Defence of Human Rights in respect of Ms Jennifer Madike /Nigeria) because two letters of reminder to the complainant had gone unanswered. The Commission interpreted this prolonged silence on the part of the complainant as “loss of contact with the complainant.”

[9] In its decision on communication 70/92 (Ibrahima Dioumessi, Sekou Kande, Ousmane Kaba /Guinea), the Commission declared the communication inadmissible because the complainant had included no address and the address could not be located through other means.

[10] In the present case, the Commission has not had contact with the complainant since the case was brought.

[11] The Commission has tried various means in an attempt to contact the complainant through other individuals. The address of the complainant’s family reached the Commission in the same letter as news of the complainant’s death. Efforts made to contact the deceased’s legal successor have not borne results.

[12] FOR THESE REASONS, THE COMMISSION declares the communication inadmissible.

[13] Taken at the 20th session, Grand Bay, Mauritius, October 1996.