

27 April-11 May 2005

Communication No. 273/2003

**AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

**Thirty-Seventh Ordinary Session  
27 April-11 May 2005**

**CENTRE FOR ADVANCEMENT OF DEMOCRACY, SOCIAL JUSTICE,  
CONFLICT RESOLUTION AND HUMAN WELFARE**

**v.**

**NIGERIA  
DECISION**

**BEFORE:** CHAIRPERSON: Salamata Sawadogo  
VICE CHAIRPERSON: Yassir S.A. El Hassan  
COMMISSIONERS: Mohamed A. Ould Babana, Kamel Rezag Bara, Andrew R. Chigovera, Vera M. Chirwa, Emmanuel V.O. Dankwa, Jainaba John, Angela Melo, Sanji Mmasenono Monageng, Bahame Tom Mukirya Nyanduga

**Citation:** Ctr. for Advancement of Democracy, Soc. Justice, Conflict Resolution and Human Welfare v. Nig., Comm. 273/2003, 18th ACHPR AAR Annex III (2004-2005)

**Publications:** Documents of the African Commission on Human and Peoples' Rights, Vol. 2, at 725 (Malcolm D. Evans & Rachel Murray eds., 2009); (2005) AHRLR 62 (ACHPR 2005)

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**RAPPORTEUR**

33rd Ordinary Session: Commissioner Jainaba John

34th Ordinary Session: Commissioner Jainaba John

35th Ordinary Session: Commissioner Jainaba John

36th Ordinary Session: Commissioner Jainaba John

37th Ordinary Session: Commissioner Jainaba John

## SUMMARY OF FACTS

1. On 17 March 2003, the Secretariat of the African Commission on Human and Peoples' Rights (the African Commission) received a communication from the Centre for Advancement of Democracy, Social Justice, Conflict Resolution and Human Welfare, an NGO based in Nigeria, relative to Article 55 of the African Charter on Human and Peoples' Rights (the African Charter).
2. The Centre for Advancement of Democracy, Social Justice, Conflict Resolution and Human Welfare submitted the communication for and on behalf of Mr. Abuoma Excellence Emmanuel, 30 years old and Member of the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB).
3. The communication was submitted against Nigeria (a State party<sup>17</sup> to the African Charter). The communication alleged that in December 2000, the Nigerian Police Force (NPF) arrested Mr. Abuoma Excellence Emmanuel during a raid at the MASSOS Headquarters at Okigwe, Imo-State, Nigeria.
4. The communication further alleged that since the arrest of Mr. Abuoma Excellence Emmanuel (more than two years now), no charges had been brought against him and attempts to have him released on bail had failed.

## THE COMPLAINT

5. The Centre for Advancement of Democracy, Social Justice, Conflict Resolution and Human Welfare contends that the above-described facts constitute a violation by Nigeria of Articles 2, 3, 4, 5, 6, 7, 8, 10 and 20 (1) of the African Charter on Human and Peoples' Rights and therefore, prays that the African Commission addresses the violations.

(Nigeria ratified the African Charter on 22/06/1983).

## THE PROCEDURE

6. By a letter referenced ACHPR/COMM/274/2003 and dated 17 April 2003, the Secretariat of the African Commission acknowledged receipt of the communication to the author (Centre for Advancement of Democracy, Social Justice, Conflict Resolution and Human Welfare) and indicated that the communication would be considered on seizure at the 33rd Ordinary Session of the Commission scheduled for the 15th to 29th May 2003 in Niamey, Niger.
7. During its 33rd Session held from the 15th to 29th May 2003, in Niamey, Niger, the African Commission considered the communication and decided to be seized thereof.

8. By a Note Verbale referenced ACHPR/COMM/273/2002 and dated 12 June 2003, the Secretariat of the African Commission notified the republic of Nigeria of the decision on seizure and requested it to furnish the Commission with its arguments on the admissibility on the case within three months from the date of notification for possible consideration during its 34th Ordinary Session.
9. By a letter referenced ACHPR/COMM/273/2002 and dated 12 June 2003, the Secretariat of the Commission also notified the Complainant of the decision on seizure and requested for arguments on admissibility within three months from the date of notification for possible consideration during its 34th Ordinary Session
10. Both parties to the Communication neither responded to the notifications nor submitted arguments on admissibility. During its 34th Ordinary Session held in November 2004 in Banjul, the Gambia, the African Commission, requested the Secretariat to give the parties more time to submit their submissions.
11. The Secretariat of the African Commission tried to contact the Complainant by telephone and by fax for more information, but in vain, since the contact details provided by the latter at the time of depositing the communication, were invalid.
12. On the 2 December 2003, the Secretariat of the Commission sent by fax a Note Verbale referenced (ACHPR/COMM 273/2002/RK) to the Respondent State through its Embassy in Banjul, informing it that the African Commission awaited its comments on the admissibility of the complaint, attaching a new copy of the communication to the Note for ease of reference.
13. The Secretariat also sent a letter referenced ACHPR/COMM 273/2002 by electronic mail and by post on the 3rd December 2003 reminding the complainant to submit his arguments on admissibility. The Secretariat further informed the Complainant of the difficulties encountered in contacting him and requested information as to whether the victim was still detained and about the conditions of his detention.
14. On 19 April 2004, the Secretariat of the Commission sent a letter to the complainant again by post informing him that since it had not received any information despite constant reminders, African Commission had decided to postpone the case for consideration to its 36th Session. The letter further pointed out that if by the end July 2004 it did not receive any information enabling it to rule on the admissibility of the complaint it would be compelled to strike the complaint from its register for lack of interest by the Complainant.
15. On 20 April 2004, a copy of the letter to the complainant was sent to the Complainant through the Nigerian National Human Rights Commission, which, some weeks later, informed the Secretariat of its inability to trace the Complainant at the indicated address.
16. On 25 May 2004, the Secretariat of the African Commission received an electronic message from the Complainant, through a one Mr. Gerald Abonyi, informing the African Commission that the organization was withdrawing its Complaint. He specified that his organization would, from henceforth, stop all correspondence on the subject.

17. At its 35th Ordinary Session, which was held in May/June 2004 in Banjul, The Gambia, the African Commission realized that the request for withdrawal of the Complaint came from the email address of the Complainant but not from the usual correspondent in this case (Mr. Ekene Chukwu, Secretary General of CADSJCRHW). The Commission requested the Secretariat to send him a note for confirmation on whether the request for withdrawal was genuine.
18. On the 21/06/2004, the Secretariat sent a letter requesting clarifications and confirmation of the request for withdrawal of the Complaint from the CADSJCRHW. However, no response was received from the Complainant.
19. During its 36th Ordinary Session held in Dakar, Senegal from 22 November to 7 December 2004 the African Commission decided to give the complainant one last chance to confirm withdrawal of his complaint.
20. The Secretariat vide a letter dated 23 December 2004 requested the complainant to confirm withdrawal of the complaint. However to date no response to the request has been received by the Secretariat.

## THE LAW

### ADMISSIBILITY

21. Article 56 of the African Charter on Human and Peoples' Rights provides that communications referred to in Article 55, in order for them to be considered, must necessarily be sent to the African Commission after exhaustion of local remedies if any, unless it is obvious that this procedure is unduly prolonged.
22. It is worth noting in the case under study, that from the date the Complaint was submitted to the Secretariat of the African Commission (17 March 2003) and in spite of several letters sent to request the Complainant and the Respondent State to submit on admissibility, there were no responses.
23. The Complainant in May 2004 requested the withdrawal of the complaint via email and again despite various efforts to get a written confirmation of the withdrawal the same was not forthcoming to date.
24. Consequently, the African Commission decides to close the file for lack of further interest in the communication by the complainant.

Adopted at the 37th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 27th April to 11th May 2005 in Banjul, The Gambia.