

UGANDA / JUDGMENT

Bahieddin Ahmed v Egypt (Communication 615 of 2016) [2018] ACHPR 123 (18 October 2018)

[2018] ACHPR 123

COURT

African Commission on Human and Peoples Rights

CASE / FILE NUMBER

Communication 615 of 2016

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African Commission on Human & Peoples' Rights

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Commission Africaine des Droits de l'Homme & des Peuples

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 615/16

**Medhat Mohammed Bahieddin Ahmed (represented by the Organization of
European Alliance for Human Rights and Ors)**

Egypt

Adopted by the African Commission on Human and Peoples' Rights during the 23rd
Extra-Ordinary Session, from 13th to 22nd February 2018 Banjul, The
Gambia

Commissioner Soyata Maiga Chairperson of the African Commission on Human and Peoples' Rights

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

Communication 615/16 - Medhat Mohammed Bahieddin Ahmed (represented by the Organization of European Alliance for Human Rights and Ors) 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 31 March 2016 on behalf of Mr. Medhat Mohammed Bahieddin Ahmed (the Victim), from European Alliance and others (the Complainants).
- 2. The Complaint is submitted against the Arab Republic of Egypt (the Respondent State), State Party to the African Charter.¹
- 3. The Complainants aver that on 03 July 2013, a military coup took place in the Respondent State in which vast human rights violations occurred. The regime particularly sought to eliminate those opposed to the coup.
- 4. The Complainants allege that there were killings, forced disappearances, torture of prisoners and inmates, as well as violation of the women and children's rights in detention. It states that victims of these alleged human rights violations were denied their right to defense due to the arrests and falsification of allegations against lawyers who represented them in order to pressurize them to discontinue their relevant legal services.
- 5. The Complainants allege that the "Authorities deprived people of their nationalities, violate freedom of thinking especially that of university lecturers and generally turned Egypt into a large prison to terrify the Egyptian people, through lawlessness and in blatant breach of international human rights law".
- 6. Specifically, the Complainants allege that on 07 February 2016, security forces stormed the house of the Victim, an Egyptian national, born in 1972, who is an English teacher. They allegedly broke all the household furniture and kidnapped him.
- 7. The Complainants allege that the Victim was in hiding from 07 February 2016 until 14 February 2016 and no one knew about his whereabouts. It avers that the Victim's family made efforts to look for him and did not find him until the security forces presented him to them in a hyped state. Thereafter, investigations were initiated and the Victim did not have access to a lawyer. On 24 February

¹ The Republic of Egypt ratified the African Charter on Human and Peoples' Rights on 20 March, 1984

2016, the public prosecutor released him, but the security forces forcibly took him again. Mr. Medhat Mohammed Bahieddin Ahmed's whereabouts are still not known.

- 8. Regarding the need to exhaust domestic remedies, the Complainants submit that the exhaustion of domestic remedies after the coup and under the current regime has become absolutely impossible as the judiciary in Egypt is now compromised as it has subdued itself to the military rulers who are now ruling in the country. As a result, the Complainant alleges that the judges are not impartial and issue unjustifiably harsh sentences against victims. The Complainant also alleges that judges, attorneys and lawyers who are impartial are either dismissed or accused of unfounded allegations adding that court sentences have become politicized.
- 9. The Complainant alleges that this Complaint has.. never been presented before any other international dispute settlement forum for settlement or adjudication and that the Complaint has been filed within a reasonable time in accordance with Article 56(6) of the African Charter.

Articles alleged to have been violated

10. The Complainant alleges that the Respondent State has violated Articles 1, 2, 3, 4, 5, 6, 7, 8, 19, 20 and 61 of the African Charter on Human and Peoples' Rights.

Procedure

- 11. The Secretariat received the Complaint on 31 March 2016 and acknowledged receipt on 08 April 2016
- 12. The African Commission on Human and Peoples' Rights (the Commission) was seized of the Communication during the 58th Ordinary Session of the Commission, held from 06 to 20 April 2016.
- 13. By letter and note verbale dated 28 April 2016 the Complainant and the Respondent State were informed of the decision to be seized and the Complainant was requested to present evidence and arguments on admissibility within two (2) months.
- 14. By letter and note verbale dated 25 July 2016 the Complainant and the Respondent State were informed that the Communication was deferred during the 20th Extra-Ordinary Session, pending receipt of the Complainant's submissions on admissibility.

- 15. By letter and note verbale dated 23 November 2016 the Complainant and the Respondent State were informed that the Communication was deferred during the 59th Ordinary Session, pending receipt of the Complainant's submissions on admissibility. By the same communication, the Complainant was reminded to submit submissions on admissibility within one (1) month, failing which it would be struck out for lack of diligent prosecution.
- 16. By letter and note verbale dated 11 July 2017 the Secretariat informed the Parties that the Communication was deferred during the 60th Ordinary Session.
- 17. By note verbale dated 02 August 2017 and received at the Secretariat on 14 August 2017, the Respondent State indicated that the Complainant had not made their submissions on admissibility within the required time frame and requested that the Communication be struck out.
- 18. By letter and note verbale dated 20 September 2017 the Secretariat informed the Parties that the Complainant had been granted an additional thirty (30) days within which to submit on admissibility, failing which the Communication would be struck out for lack of diligent prosecution.
- 19. In a note verbale dated 27 October 2017 received at the Secretariat on 24 November 2017, the Respondent State indicated that the additional time had expired and thus requested the Commission to strike out the Communication.

Analysis of the Commission to strike out

- 20. Rule JOS(1) of the Commission's Rules of Procedure 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.
- 21. Rule 113 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.
- 22. In this case, the Complainant was requested to present evidence and arguments on the admissibility of the Communication within two (2) months from the date of notification of the seizure decision, which had expired on 28 June 2016. However, the Complainant did not present any evidence and arguments within the stipulated time. The said period was extended by the Commission for a period of 30 calendar days and same had expired on the 23 December 2016.

- 23. During its 22nd Extraordinary Session which took place from 29 July to 07 August 2017, in Dakar, Republic of Senegal, the Commission decided, because it was not satisfied that the Complainant has received the earlier correspondences based on the evidence on record, to granted the Complainant a further period of 30 calendar days from the date of notification to submit evidence and arguments on the admissibility of the above mentioned Communication.
- 24. More than three (3) months have lapsed since the expiry of the last extended period and no evidence and arguments have been submitted by the Complainant on the admissibility of the Communication. There is also evidence on record that the Complainant has received the letter granting further extension of time to submit on admissibility.
- 25. In light of the above, the Commission.therefore finds that the ~omplainant has shown no interest in prosecuting · Communi ation.
- 26. The Commission takes note of its jurisprudence, including **Communication 594/15: Mohammed Ramadan Mahmoud Fayad Allah v. the Arab Republic of Egypt**, **Communication 612/16: Ahmed Mohammed Ali Subaie v. the Arab Republic of Egypt**, **Communication 412/121 Journal Echos du Nord v. Gabon** and **Communicatio 387/10: Kofi Yamagnane v. The Republic of Togo**, which were similarly struck out for want of diligent prosecution.

Decision of the Commission

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

Done at the 23rd Extra-Ordinary Session of the Commission held in Banjul, The Gambia from 13 to 22 February 2018

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