

13-27 October 2001
Communication No. 238/2001

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
Thirtieth Ordinary Session
13-27 October 2001

INSTITUTE FOR HUMAN RIGHTS AND DEVELOPMENT (ON BEHALF OF
MBOYO)

v.

DEMOCRATIC REPUBLIC OF CONGO

DECISION

BEFORE: CHAIRPERSON: Kamel Rezag-Bara
VICE CHAIRPERSON: Jainaba Johm
COMMISSIONERS: A. Badawi El Sheikh, Andrew R. Chigovera, Vera M. Chirwa, Emmanuel V. O. Dankwa, Yasser Sid Ahmed El-Hassan, Angela Melo, N. Barney Pityana, Hatem Ben Salem, Salimata Sawadogo

Citation: Inst. for Human Rights and Dev. v. Dem. Rep. of Congo, Comm. 238/2001, 15 ACHPR AAR Annex V (2000-2001)

Publications: Documents of the African Commission on Human and Peoples' Rights, Vol. 2, at 347 (Malcolm D. Evans & Rachel Murray eds., 2009); (2002) AHRLR 19 (ACHPR 2002)

RAPPORTEUR

29th session: Commissioner Isaac Nguema

30th session: Commissioner Tapsoba

SUMMARY OF FACTS

1. The Institute submitted the complaint on behalf of Mr Sedar Tumba Mboyo for Human Rights and Development, (the Institute for Human Rights and Development is a Human Rights NGO located in Banjul, the Gambia and since October 1999 has been granted observer status with the African Commission).

2. The communication was sent by post and was received at the Secretariat of the Commission on 21st November 2000.
3. The applicant who has full powers to act on behalf of Mr. Tumba Sedar Mboyo, maintains that AFDL (the Alliance of Democratic Forces for Liberation) soldiers forced entry into Mr Sedar's Residence, and after having brutalised and intimidated his neighbourhood forcefully took him without warrant or explanation.
4. He was bound hand and foot, kept in conditions where he could not satisfy his natural needs and subjected to "heavy handed" interrogation for three (3) days, after which he was accused of inciting a popular uprising.
5. He was then transferred and detained together with ten or so other anti-Kabila protesters in the former Mobutu military camp. Mr Mboyo affirms that he was beaten and his rights infringed upon for two days by the three soldiers guarding him.
6. Mr Mboyo was detained incommunicado for a total period of twenty three (23) days.
7. The applicant recognises that Mr Mboyo's activities within a civilian association in which he headed some discussions in March 1998 may have led to these unfounded accusations.
8. At the 29th ordinary session held in Tripoli, the rapporteur introduced the complaint. The Commission examined the communication and decided to be seized of the matter and recommended that the parties be informed accordingly.
9. On 19th June 2001, the Secretariat of the African Commission informed the parties on the above decision and requested Respondent State to forward its written submissions within two (2) months from the date of notification of this decision
10. On 20th June the Secretariat of the African Commission requested the Institute for Human Rights and Development to furnish clarification on the measures taken by the author to exhaust local remedies or any documents on his possession proving the all allegations.

COMPLAINT

11. The Complainant is alleging that Articles 5, 6, 7, 9, 10, 11, 13, 18 and 26 of the African Charter on Human and Peoples' Rights have been violated.

ACTION REQUIRED

Decision on admissibility should be made after additional information and evidence is got from the Complainant.