

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
Thirty-First Ordinary Session
2-16 May 2002

**INSTITUTE FOR HUMAN RIGHTS AND DEVELOPMENT (ON BEHALF OF
SEDAR TUMBA 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. Congo, Comm. 238/2001, 15th ACHPR AAR Annex V (2001-2002)

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 Sawadogo

31st session: Commissioner Sawadogo

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 Complainant alleges that Mr Mboyo's human rights activities within the NGO may have led the government into making these unfounded accusations.

COMPLAINT

8. 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.

PROCEDURE

9. 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.
10. 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
11. 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.
12. During the 30th Ordinary Session, the rapporteur reviewed the facts of the communication and recommended that the case be deferred to the next Session. Parties were requested to forward relevant information to the Commission on exhaustion of local remedies and on the alleged violence against the Complainant before the next Session to enable it decide on admissibility.
13. On 19th November 2001, the Secretariat of the African Commission informed the parties on the decision of the Commission and requested the Complainant and the

Respondent State to forward their written submissions within two (2) months from the date of notification of this decision.

14. On 19th February 2002, a reminder was sent to the Respondent State and the Complainant to forward their submissions within the prescribed time to enable the Secretariat to proceed with the communication.

15. By letter dated 6th March 2002, Counsel for the Complainant informed the Commission that Mr Mboyo had requested that this communication be withdrawn.

FOR THE ABOVEMENTIONED REASON

The Commission takes note of the withdrawal of the communication by the Complainant and decides to close the file.

Done at the 31st Ordinary Session, held in Pretoria, South Africa from 2nd to 16th May 2002.