

AFRICAN UNION		UNION AFRICAINE
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Communication 656/17

Anas Ahmed Khalifa

v

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 656/17 – Anas Ahmed Khalifa 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 30 March 2017 from the Organisation of European Alliance for Human Rights (AED), AMAN Organisation, Mrs. Hager El-Sayed Khalil and one other individual who sought anonymity (T) (the Complainants), on behalf of Mr. Anas Ahmed Khalifa (the Victim).
2. The Complaint is submitted against the Arab Republic of Egypt (Respondent State), a State Party to the African Charter on Human and Peoples' Rights (the African Charter).¹
3. The Complainants submit that the Victim is a 30 year old Egyptian national employed at the Egyptian Telecom Company.
4. The Complainants allege that the Victim was arrested on 4 May 2014 by a group of officers and soldiers, some of whom were in military uniform and others in plain clothes. It is alleged that no reason was given for the arrest. The Complainants assert that the Victim was then taken to a location which was undisclosed to his family and lawyer and was kept in detention for a month. It is further averred that during this time the Victim was tortured, which allegedly resulted in him admitting to fabricated charges.
5. The Complainants aver that the Victim was then presented to the Public Prosecution without the presence of a lawyer. According to the Complainants, the Public Prosecution conducted an immediate investigation and transferred the case to the Military Court, despite the Victim being a civilian. The Complainants assert that on 01 March 2016 the Victim was sentenced to life imprisonment in an unfair trial by the Military Court composed of military officials who are not required to be trained in law and based on the self-incriminating evidence obtained under torture.
6. The Complainants allege that the Victim was held in the Aqerab Prison. The Complainants add that in prison the Victim went on a hunger-strike in protest of the unfair trial, as a result of which he was placed in solitary confinement as punishment.

¹ Egypt ratified the African Charter on Human and Peoples' Rights on 20 March 1984.



7. The Complainants aver that the solitary confinement cell was very small with no ventilation outlets, painted black and with no lighting as the prison is built underground. They further state that the cell has no bed or water, and the Victim was detained under such conditions for eight (8) months. The Complainants allege that during this time the Victim continued to abstain from food, and that when the prison administration realised this, they resorted to force feeding him, which caused physical harm to the Victim.
8. The Complainants aver that the Victim continues to be held under the conditions described above in the Aqerab Prison. The Complainants state that in the summer the temperature in the prison is very high, sometimes up to 60 degrees Celsius, and in winter it is very low, sometimes up to 1 degree Celsius.
9. The Complainants submit that the Victim was beaten severely by the prison administration, resulting in unconsciousness and at some point the Victim was in a coma. The Complainants further submit that the Victim's health is seriously deteriorating and he continues to be denied medical care.

Articles alleged to have been violated

10. The Complainants allege violation of Articles 1, 2, 3, 4, 5, 6, 7, 8 and 19 of the African Charter on Human and Peoples' Rights.

Procedure

11. The Secretariat received the Complaint on 30 March 2017 and acknowledged receipt on 24 April 2017.
12. The African Commission on Human and Peoples' Rights (the Commission) was seized of the Communication during the 60th Ordinary Session of the Commission, held from 08 to 22 May 2017.
13. By letter and note verbale dated 09 June 2017 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 22 September 2017 the Complainant and the Respondent State were informed that the Communication was deferred during the 22nd Extra-Ordinary Session.



15. By letter dated 24 November 2017 the Complainant was informed that the deadline for submissions on admissibility expired on 09 August 2017, and that it was no longer possible for him to make submissions on admissibility. By note verbale of the same date the Respondent State was informed that the Communication was deferred during the 61st Ordinary Session.

Analysis of the Commission to strike out

16. Rule 105(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.
17. 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.
18. 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 09 August 2017. However, the Complainant did not present any evidence and arguments within the stipulated time.
19. To date, the Complainant has not (i) made any admissibility submissions, (ii) responded to correspondences from the Commission, including the last one dated **24 November 2017** and (iii) has not requested for an extension of time to submit. There is evidence on record that the Complainant has received the correspondence of 22 September 2017.
20. In light of the above, the Commission therefore finds that the Complainant has shown no interest in prosecuting this Communication.
21. 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 412/12L Journal Echos du Nord v. Gabon** and **Communication 387/10: Kofi Yamagnane v. The Republic of Togo**, which were similarly struck out for want of diligent prosecution.

Decision of the Commission

22. 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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