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COMMUNICATION 865/25

**William Kiplangat Kalegu and
others (Roy Koimett)**

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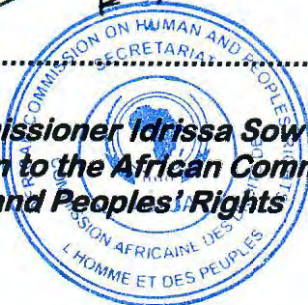
The Republic of Kenya

Adopted by the

African Commission on Human and Peoples' Rights

*During the 85th Ordinary Session held in Banjul from 07 to 30 October 2025,
Banjul, The Gambia*

Hon. Commissioner Idrissa Sow
Chairperson to the African Commission
on Human and Peoples' Rights

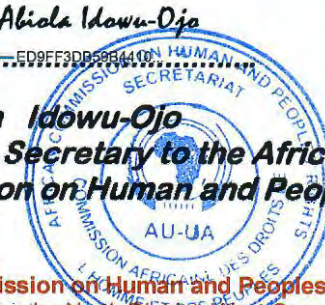


Signed by:

Abiola Idowu-Ojo

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Ms. Abiola Idowu-Ojo
Executive Secretary to the African
Commission on Human and Peoples'
Rights





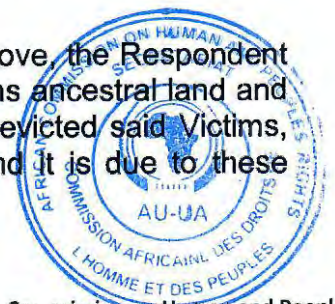
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Communication 865/25: William Kiplangat Kalegu and others (Roy Koimett) v. The Republic of Kenya

Summary of the Complaint:

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) received a Communication on 7 January 2025, submitted by Koimett & Company Advocates represented by Roy Koimett hereinafter called "the Complainants" on behalf of William Kiplangat Kalegu, Joseph Letuya, Elasco Rono, Nahashon K. Kipto, Stephen Pandumuye, Joseph K. Sang, Parsaloi Saitoti, Kiprono Sigilal, Zakayo Lesinga, James Rana, Julius Sitonim, Charles K. Ndaranya, hereinafter called "the victims".
2. The Complaint was lodged against the Republic of Kenya (hereinafter the Respondent State or Kenya), which ratified the African Charter on Human and Peoples' Rights (the African Charter) on 23 January 1992.
3. The Complainants indicate that the victims are Kenyan citizen, and that the victims are the beneficial owners of the lands located at Mariashioni Location, Elburgon Division, Nessuit Location and Njoro Division within the Nakuru County or the Mau Forest outskirts.
4. According to the Complainants, the victims and their families have occupied the said land since time immemorial because the same was ancestral and did indeed support their lifestyle as the hunter-gatherer Ogiek community.
5. The Complainants allege that indeed the victims herein have subsisted on the said lands as have their ancestors since they were toddlers and the same was a forest as opposed to arable land.
6. The Complainants claim that their relatives and their ancestors have been interred therein and the land holds sacred trees and shrines of utmost importance to the Victims and their community.
7. The Complainants further allege that notwithstanding the above, the Respondent State has illegally and un-procedurally moved into the Victims ancestral land and purportedly with the help of their armed services forcefully evicted said Victims, tearing down their premises and abodes without notice and it is due to these circumstances that the Victims file this application.





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8. The Complainants submit that the Victims herein are indeed the Victims in Nairobi ELC Suit No. 821 of 2012 as against the Attorney General, Provincial Commissioner Rift Valley Province, Rift Valley Provincial Forests Officer, District Commissioner Nakuru, Wilson Chepkwony and the Director of Forestry being the first to sixth Respondents respectively.
9. The Complainants submit that indeed the Victims herein were successful, and the Court pronounced itself in their favour, ordering inter alia:
 - a. This Court hereby declares that the right to life protected by Section 71 of the previous Constitution and Article 26 of the 2010 Constitution the right to dignity under Article 28 of the 2010 Constitution and the economic and social rights under Article 43 of the Constitution, of the affected members of the Ogiek Community in Marioshioni Location, Elburgon Division, Nessuit Location and Nioro Division within Nakuru in the Mau Forest Complex including the Victims has been contravened and is being contravened by their forcible eviction from said locations without resettlement and that said members of the Ogiek Community have been deprived of their means of livelihood.
 - b. This Court hereby declares the eviction of the Victims and other members of the Ogiek Community from Mariashioni Location, Elburgon Division, Nessuit Location and Nioro Division, Nakuru in the Mau Complex is a contravention of their right not to be discriminated against under Section 82 of the previous Constitution and Article 27 and 56 of the 2010 Constitution, as it has resulted in the Victims being unfairly prevented from living in accordance with their culture as farmers, hunters and gatherers in the Forests.
 - c. The National Land Commission is hereby directed to, within one year of the date of judgment, identify and open a register of members of the Ogiek Community in consultations with the Ogiek Council of Elders, and identify land for the settlement of the said Ogiek members and the Victims who were to be settled in the excised area Mariashioni Location, Elburgon Division, Nessuit Location and Njoro Division in Nakuru and have not yet been given land in line with the recommendations in the Report of the Government Task Force on the Conservation of the Mau Forest Complex published in March 2009.
 - d. The Victims shall serve a copy of the Judgment and orders herein to the Chairman of the National Land Commission within 30 days of the date of this Judgment.
 - e. The 1st 2nd 3rd 4th 6th Respondents shall meet the costs of this suit.
10. The Complainants submit that indeed even though the Respondent State has partially adhered to the ruling of the Court in so far as making a register of sorts of





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the members of the Ogiek Community the process has been marred with lethargy and indeed disinterest as they are yet to be resettled in the terms of the ruling above.

11. The Complainants submit that due to the above and the States non-adherence to the orders of the local Courts the complainants have exhausted all local remedies thus necessitating the current complaint.
12. The Complainants allege that the unlawful evictions and demolition of the Victims' land violate Articles 1, 4, 5, 8, 12(1), 14, 17(2) & (3), 22, and 23(1) of the Charter.
13. The Complainants claim that the case has not been submitted to any other international dispute settlement body or institution of similar jurisdiction.

Articles alleged to have been violated:

14. The Complainants allege a violation of the following Articles of the African Charter on Human and Peoples' Rights (the African Charter) Articles 1; 4; 5; 8; 12(1); 14; 17(2) & (3); 22 and 23(1)

Prayers:

15. The Complainants request the African Commission on Human and Peoples' Rights to recommend to the Government of Kenya that it should forthwith cease the evictions of the Victims with immediate effect and strictly adhere to the judgment issued by Honourable Court in the cases serialised as: Nairobi ELC Suit No. 821 of 2012, failure to which it shall refer the matter to the African Court of Human & Peoples Rights

Procedure:

16. The Complaint was received by the Secretariat of the African Commission on 07 January 2025 and receipt acknowledged on the same date.
17. On the 11 April 2025 the Parties were informed of the seizure of the Complaint, and the Complainants was invited to submit Arguments and Evidence on Admissibility and Merits within sixty (60) days, in accordance with Article 115(1) & 116(1) of the 2020 Rules of Procedure of the Commission.

The Commission's Analysis on Strike Out:

18. The Commission recalls that the 2020 Rules of Procedure regulate the conduct of Article 55 communications: once seized (Rule 115), the Secretary must request



The African Commission on Human and Peoples' Rights
31 Bijilo Annex Layout, Kombi North District, West Coast Region
Phone: (220) 230 4361 Fax: (220) 441 05 04
Email: au-baniul@africanunion.org

<https://achpr.au.int/>



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the complainant's arguments and evidence on admissibility and merits within sixty (60) days, and the Commission may impose further time-limits and call for additional information (Rule 116(1), (3)–(4)); moreover, in the absence of a specific provision, the Commission retains residual authority to regulate procedure and ensure the efficient operation of its Secretariat, including interpreting its own decisions (Rule 1(2) and Rule 3(1), (4)–(6)).

19. Consistent with these provisions, the Commission has repeatedly struck out communications for want of diligent prosecution where, after seizure and notification, complainants failed to file the required submissions or otherwise evinced no intention to proceed—see **Shereen Said Hamd Bakhet v. Arab Republic of Egypt**, (strike-out for lack of diligent prosecution)¹; **European Alliance for Human Rights and Others v. Egypt**² (same, referencing **Fayad Allah**³ and **Kofi Yamagnane v. Togo**⁴ and the Commission's strike-out decision against Kenya which cites **Faramawy & Others**⁵ that reaffirmed that, under Rule 105(1) and Rule 113 of the 2010 Rules of Procedure (now reflected in Rule 116(1) and Rule 98 of the 2020 Rules), a complainant must file admissibility submissions within the prescribed time or seek an extension, failing which the matter may be struck out for want of diligent prosecution.
20. In the Communication at hand, the Commission notes that after the Complaint was seized, the Complainant was invited to present the Arguments and Evidence on the Admissibility and Merits of the Communication within sixty (60) days of receipt of the notification.
21. The Commission notes that the Complainant did not present its Arguments and Evidence on Admissibility and Merits within the sixty (60) days' notice. Further, the Complainant also did not respond to the email of the Secretariat drawing his attention to submit on Admissibility and Merits, and that the failure to respond can be a ground for a strike out.
22. The Commission notes that more than two (2) months have passed after the end of the sixty (60) days' notice to submit Arguments and Evidence on Admissibility and Merits of this communication, and the Complainant has not done so.
23. In view of the foregoing, the Commission notes that the Complainants have not expressed an interest in pursuing the present Communication and that the

¹ Comm. 658/17

² Comm. 544/15

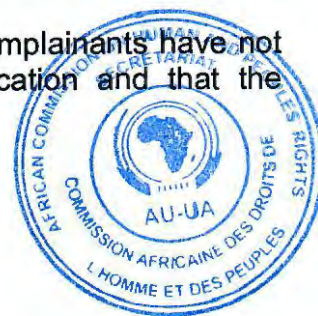
³ Comm. 594/15

⁴ Comm. 387/10

⁵ Comms. 637/16 & 639/16

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31 Bijilo Annex Layout, Kombo North District, West Coast Region
Phone: (220) 230 4361 Fax: (220) 441 05 04
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Commission therefore does not have sufficient information to determine the admissibility of the Communication.

The Commission's Decision on Strike Out

24. In view of the above, the Commission decides to strike out the present Communication against the Republic of Kenya for lack of diligent prosecution.

Done at Banjul, The Gambia, at its 85th Ordinary Session held from 07 – 30 October 2025

