

# 133/94 : Association pour la défense des droits de l'Homme et des libertés / Djibouti

## Summary of Facts

1. The communication is filed by “ *Association pour la défense des droits de l'Homme et des libertés*”, an NGO from Djibouti. The communication complains that there have been a series of human rights abuses against members of the Afar ethnic group committed by government troops in areas of renewed fighting with the FRUD, “*Front pour la restauration de l'unité et de la démocratie*”. The FRUD draws its support mainly from the Afar ethnic group. There are reports on extra-judicial executions, torture and rape. The communication names 26 people who have been executed, jailed without trial or tortured.

## Complaint

2. The Complainant alleges the violation of Articles [2](#), [3](#), [4](#), [5](#), [6](#), [7](#), [9](#), [10](#), [11](#), [12](#) and [13](#) of the African Charter by the Government of Djibouti.

## Procedure

3. The communication is dated 7<sup>th</sup> April 1994 and was received on 19<sup>th</sup> April 1994 at the Secretariat.

4. The Commission was seized of the communication at its 15<sup>th</sup> Ordinary Session, and the Ministries of External Affairs and of Justice of Djibouti were notified on the 29<sup>th</sup> July 1994. The Complainant was also notified of this decision.

5. On 26<sup>th</sup> August 1994, the Secretariat invoked [Rule 109 of the Rules of Procedure](#), i.e. asking the Government to avoid irreparable prejudice to the Complainant or the victims.

6. On 21<sup>st</sup> October 1996, at the 20<sup>th</sup> Session, the Commission received a letter from the Complainant, which demanded that the consideration of the communication be postponed to during negotiations with the government. The Commission agreed to this demand, particularly in the light of the fact that the communication had been given a new Rapporteur, who would have liked more time to study the file.

7. At the 22<sup>nd</sup> Session held in Banjul, The Gambia from 2<sup>nd</sup> -11<sup>th</sup> November 1997, the communication was declared admissible.

8. On 11<sup>th</sup> February 1998, the Secretariat received a faxed Note Verbale from the Ministry of External Affairs and International Co-operation, with a declaration of the General Assembly of the *Association pour la défense des droits de l'Homme et des libertés*, dated 25<sup>th</sup> May 1996, in which it decided to withdraw the communication due to the signing of a protocol with the government which objective was to bring about a lasting settlement to the demands of the civilian victims, refugees and displaced persons. The Secretariat acknowledged receipt of this Note Verbale on 20<sup>th</sup> February 1998.

9. The Secretariat contacted the Complainant to confirm the veracity of the claimed compromise and the subsequent withdrawal of his complaint. This was done by letter dated 1<sup>st</sup> June 1998, which was never replied.

10. At its 25<sup>th</sup> Session, the Commission mandated Commissioner Rezag-Bara to go to Djibouti and find an amicable solution to the dispute. At the same time, it deferred its decision on the merit to its 26<sup>th</sup> Session, awaiting the outcome of the efforts of Commissioner Rezag-Bara.

11. During his mission from 26<sup>th</sup> February to 5<sup>th</sup> March 2000, Commissioner Rezag-Bara met with the Djiboutian authorities and the Complainant, who confirmed that an amicable settlement had already been concluded.

12. On 30<sup>th</sup> March 2000, the Secretariat received a letter signed by the President of the *Association pour la défense des droits de l'Homme et des libertés*, Mr Mohamed Moumed Soulleh, indicating that the disagreement which formed the basis for the communication under consideration had been

amicably resolved between the parties. Mr Houmed Soulleh concluded by requesting the Commission to take note of this settlement.

## Law

### Admissibility

13. [Article 56.5](#) of the African Charter on Human and Peoples' Rights requires of any recourse to the Commission that the communications be sent "...after exhausting local remedies, if any unless it is obvious that this procedure is unduly prolonged".

14. At its 20<sup>th</sup> Session, the Commission declared the communication admissible on the grounds, among others, that the material content and effectiveness of the arrangements struck between the parties remained unknown to it, as well as the results of the enquiries and judicial proceedings mentioned by the Respondent State in its correspondence dated 8<sup>th</sup> March 1995.

15. The case brought by the Complainant is aimed at causing the Commission to declare and consider that the facts hereunder imputed to the Djiboutian armed forces and certain other agencies of the State constitute a series of violations by the Respondent State of various provisions of the Charter. The alleged wrongful acts are: the perpetration of attacks against unarmed civilians who were no participants in the combats between the forces and the rebel movement *Front pour la restauration de l'unité et de la démocratie* (in particular, summary and arbitrary executions, acts of mass rape, forced displacement and regrouping) arrests and preventive detention for periods exceeding the legal limit, etc.

16. For its part, the Respondent State transmitted to the Commission documents strongly suggesting that arrangements aimed at obtaining a lasting settlement of the demands of the victims of the violations blamed on the armed forces had been established, and consequently calls on the Commission to declare the communication inadmissible.

17. The meeting between the Complainant and Commissioner Rezag-Bara while on mission to Djibouti, as well as the Complainant's letter, received at the Secretariat on 30<sup>th</sup> March 2000, have clarified the situation and also confirmed the existence of the settlement reached between the two parties.

## Holding

**For these reasons, the Commission** Decides to close the case on the basis of the amicable settlement reached by the parties.

Algiers, Algeria, 11<sup>th</sup> May 2000.