

209/97 : Africa Legal Aid / Gambia (The)

Summary of Facts

1. Africa Legal Aid, an NGO that has observer status with the Commission, on behalf of Mr Lamin Waa Juwara, a Gambian national, submitted the communication.
2. The Complainant alleges that Mr Juwara left his house on 1st February 1996, but did not return home that day.
3. On the following day, that is 2nd February 1996, Mrs. Juwara, the Complainant's wife, learnt through newspaper reports that her husband had been detained. Mrs. Juwara went to the Regional Administrative Office where her husband was reportedly detained and was told by the Officer in Charge of the police station that Mr Juwara had been transferred to the Upper River Division prison.
4. The Complainant also states that Mr Juwara had been an independent candidate during the legislative elections which had taken place before the 1994 military coup in The Gambia and that he had been arrested several times since the coup d'etat.

Complaint

5. The Complainant alleges that the following provisions of the African Charter on Human and Peoples' Rights have been violated: Articles [6](#), [9 \(1\)](#), [\(2\)](#), [\(3\)](#)¹ and 4 [sic] of the Charter, as well as [Article 5](#) of the [International Covenant on Civil and Political Rights](#).

Procedure

6. The communication was sent to the Secretariat of the Commission by fax dated 23rd October 1997, and also by post.
7. The Secretariat acknowledged receipt of the communication on 27th October 1997 and requested the Complainant to provide additional information.
8. On 30th January 1998, the Complainant replied, highlighting the allegations that Mr Juwara who had been arrested and was probably detained at the Upper River Division prison had not been charged or brought before a court of law. Furthermore, no one knew for sure the whereabouts or the condition of Mr Juwara.
9. The Complainant therefore argues that the provisions of [Article 56\(5\)](#) of the Charter concerning the exhaustion of local remedies is inapplicable in this case since no charges had been brought against the detainee and, consequently, he could not have access to any remedy.
10. At its 23rd Session held from 20th – 29th April 1998, in Banjul (The Gambia), the Commission, having been informed by the Respondent State that Mr Lamin Waa Juwara had been released, decided to suspend a decision to be seized of the communication until the 24th Session. It further requested the Secretariat to inquire into the veracity of the statement of the State Party, as well as find out as to whether the petitioner would like to pursue the case, in the event that Mr Juwara's release were to be confirmed.
11. The Secretariat complied with the directives given by the Commission sitting at its 23rd Ordinary Session.
12. Consideration of the communication was successively deferred at the 24th, 25th and 26th Ordinary Sessions and the parties informed accordingly.
13. The matter was taken up by the Secretariat of the Commission in a meeting on 10th March 2000, with the State Counsel in the Department of State for Justice, The Gambia. The State Counsel promised to meet the State Party's obligation as requested.

Law

Admissibility

14. [Article 56\(5\)](#) of the Charter provides:

Communications...shall be considered if they: ... are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged.

15. The Commission reviewed the case and noted that the Complainant has not satisfied the requirement for exhaustion of local remedies as stipulated in the aforementioned provision.

Holding

For the above reason, the Commission

Declares the communication inadmissible.

Algiers, Algeria, 11th May 2000.

Footnotes

1. **Editor's note:** Article 9 of the African Charter on Human and Peoples' Rights has only 2 subsections