

## 238/01 : Institute for Human Rights and Development in Africa (on behalf of Sédar Tumba Mboyo) / DRC

### Summary of Facts

1. The Institute 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) submitted the complaint on behalf of Mr Sédar Tumba Mboyo.

2. The communication was sent by post and was received at the Secretariat of the [African] Commission on 21st November 2000.

3. The Applicant, who has full powers to act on behalf of Mr Sédar Tumba Mboyo, maintains that AFDL (the Alliance of Democratic Forces for Liberation) soldiers forced entry into Mr [Sédar Tumba] Mboyo'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 (10) 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 (2) days by the three soldiers guarding him.

6. Mr Sédar Tumba Mboyo was detained incommunicado for a total period of twenty three (23) days.

7. The Complainant alleges that Mr Sédar Tumba 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 have been violated.

### Procedure

9. At the 29<sup>th</sup> Ordinary Session held in Tripoli, the Rapporteur introduced the complaint. The [African] Commission examined the communication and decided to be seized of the matter and recommended that the parties be informed accordingly.

10. On 19<sup>th</sup> 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 20<sup>th</sup> 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 [sic] allegations.

12. During the 30<sup>th</sup> 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 [African] Commission on exhaustion of local remedies and on the alleged violence against the Complainant before the next Session to enable it [to] decide on admissibility. 13.

On 19<sup>th</sup> November 2001, the Secretariat of the African Commission informed the parties on the decision of the [African] 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 19<sup>th</sup> 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 6<sup>th</sup> March 2002, Counsel for the Complainant informed the [African] Commission that Mr [Sédar Tumba] Mboyo had requested that this communication be withdrawn.

## Holding

**For the abovementioned reason, the [African] Commission takes note of the withdrawal of the communication by the Complainant and decides to close the file.**

**Done** at the 31<sup>st</sup> Ordinary session held in Pretoria, South Africa, from 2<sup>nd</sup> to 16<sup>th</sup> May 2002<sup>1</sup>

## Footnotes

**1. Editor's note:** The French version of this decision has 14 paragraphs and the English version has 15.