

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, TheGambia Tel: (220) 4410505 / 4410506; Fax: (220) 4410504 E-mail: au-banjul@africa-union.org ; Web www.achpr.org		

Communication 574 /15

Mr. Ammar Muhammad Badee Abdel-Magied Sami and Dr. Muhammad Badee Abdel-Magied Sami (*Represented by European Alliance for Human Rights*)

v.

Arab Republic of Egypt.

*Adopted by the
African Commission on Human and Peoples' Rights
during the 23rd Extra-Ordinary Session, from the 13 to 22 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

Decision of the African Commission on Human and Peoples' Rights on Strike-Out

Communication 574/15 – Mr. Ammar Muhammad Badee Abdel-Magied Sami and Dr. Muhammad Badee Abdel-Magied Sami (Represented by European Alliance for Human Rights v. Arab Republic of Egypt.

23rd Extra-Ordinary Session:

Summary of the Complaint:

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat), received a Complaint on 1 October 2015, from the European Alliance for Human Right (AED) (the Complainant) on behalf of Mr. Ammar Muhammad Badee Abdel-Magied Sami (the First Victim) and Dr. Muhammad Badee Abdel-Magied Sami (the Second Victim) against the Arab Republic of Egypt (the Respondent State), a State Party to the African Charter on Human and Peoples' Rights (the African Charter).¹
2. The Complainant submits that on 3 July 2013, a bloody military coup took place in Egypt which violated all human rights and still continues to eliminate a sector of the Egyptian people who oppose the coup. The Coup leaders have discriminated against and eliminated a sector of the indigenous people and have committed crimes of enforced disappearances, torture of prisoners and detainees as well as the arrest, detention and persecution of lawyers defending the victims.
3. The Complainant alleges that the First Victim is an Egyptian national born in 1975 and resided in Cairo City, where he worked as a Computer Engineer and married with two children.
4. The Complainant avers that on 16 August 2013, the First Victim was killed in Cairo during Friday's "Day of Rage" protests against the Egyptian Army and died of a bullet wound sustained while taking part in the protests in Ramses Square. The Complainant submits that the death certificate of the First Victim was issued by a Military Hospital and the Attorney General is said to have buried the corpse.
5. The Complainant avers that although the Attorney General was aware of the cause of the death of the First Victim, the Attorney General and all the coup authorities have not conducted any investigations on the killing.
6. The Complainant alleges that instead of the Public Prosecutor investigating the killing of the First Victim, the Second Victim, who is the father of the First Victim, was arrested for being an opponent of the coup and received thirty-four (34) fabricated malicious charges against him. The Complainant submits that the Second Victim was born in 1943 and worked as a Professor at the University. His name was included in the Scientific Arabic Encyclopedia among the great 100 Arab scientists issued by the Egypt State Information Service in 1999.
7. The Complainant states that amongst the thirty-four (34) charges fabricated against the Second Victim, the death sentence by hanging was passed on three of the charges and the

¹ The Arab Republic of Egypt ratified the African Charter on 20 March 1984.



rest of the charges carried a sentence of more than one hundred and fifty years imprisonment. The Complainant submits that the facts of each of the charges are not logical and have no proof of evidence.

8. The Complainant alleges that the Second Victim was tortured and stayed in a tiny isolated cell with no bed, no lights and poor ventilation. The Complainant further alleges that he was being interrogated late in the night on issues fabricated against him and was denied the following: food for several days, his medication, access to clean water, carrying money, buying newspapers and pens and contact with his family.

Articles alleged to have been violated:

9. The Complainant alleges violation of Articles 1, 2, 3, 4, 5, 6, 7, 8, 14, 15, 17 and 19 of the African Charter.

Prayers:

10. The Complainant requests the African Commission on Human and Peoples' Rights (the Commission) to issue Provisional Measures for the Respondent State to suspend the death sentence passed on the Second Victim and stop all forms of torture against him.
11. The Complainant also request the Commission to:
 - a. rule that the current Egyptian political regime is discriminatory because it has committed crimes of racial segregation and mass killings of human beings and enforceable disappearance. It also committed crimes of torturing of the oppositions and violation of rights of prisoners, women, children and detainees;
 - b. take a decision that the Egyptian authorities must comply by ending all the crimes and practices they carried out against humanity and to prosecute and bring the perpetrators of the killing of the First Victim and fabricated charges against the Second Victim to justice;
 - c. compel the Egyptian regime to withdraw the death sentences and life imprisonment of more than 150 years issued against the Second Victim, and the lack of a fair trial under the current coup regime;
 - d. rule that the Egyptian authorities should award compensation in the sum of USD 50 Million to the Second Victim for all the harm and damages suffered by him and his children.

Procedure:

12. The Secretariat received the Complaint on 1 October 2015 and acknowledged receipt of the same on 8 October 2015.
13. The Commission considered and seized the Communication during the Inter-session. The Commission also granted the Complainants' request for provisional measures. The Parties



were informed by letter and Note Verbale transmitted on 27 October 2015. The letter to the Complainants requested them to forward submissions on the Admissibility of the Communication within two (2) months of notification (that is, **27 December 2015**) in accordance with Rule 105 (1) of the Commission's Rules of Procedure.

14. By letter dated 25 November 2015, the Secretariat informed the Complainant that during its 57th Ordinary Session which took place from 4 to 18 November 2015, in Banjul, The Gambia, the Commission differed consideration of the Communication to a later session pending the Complainant's submission on Admissibility within the timeline stipulated.
15. By letter dated 25 January 2016, the Complainant informed the Secretariat that all documents have been submitted with the complaint.
16. By letter and Note Verbale dated 7 March 2016, the Secretariat informed the Complainant and the Respondent State that during its 19th Extra-Ordinary Session which took place from 16 to 25 February 2016, in Banjul, The Gambia, the Commission differed consideration of the Communication pending the Complainant's submission on Admissibility. The Secretariat also sort clarification from the Complainant (on his letter of 25 January 2016) on whether the Complaint submitted also serves as the submission on Admissibility?
17. By letter and Note Verbale dated 22 April 2016, the Secretariat informed the Complainant and the Respondent State that during its 58th Ordinary Session which took place from 6 to 20 April 2016, in Banjul, The Gambia, the Commission differed consideration of the Communication pending the Complainant's submission on Admissibility. The Secretariat also reminded the Complainant about the clarification sort in its letter of 7 March 2016.
18. By letter and Note Verbale dated 23 June 2016, the Secretariat informed the Complainant and the Respondent State that during its 20th Extra-Ordinary Session which took place from 9 to 18 June 2016, in Banjul, The Gambia, the Commission differed consideration of the Communication pending the Complainant's submission on Admissibility. The Secretariat also reminded the Complainant about the clarification sort in its letter of 22 April 2016.
19. By letter and Note Verbale dated 21 November 2016, the Secretariat informed the Complainant and the Respondent State that during its 59th Ordinary Session which took place from 21 October to 4 November 2016, in Banjul, The Gambia, the Commission differed consideration of the Communication pending the Complainant's submission on Admissibility. The Secretariat also reminded the Complainant about the clarification sort in its letter of 22 April 2016.
20. By letter and Note Verbale dated 15 March 2017, the Secretariat informed the Complainant and the Respondent State that during its 21st Extra-Ordinary Session which took place from 23 February to 4 March 2017, in Banjul, The Gambia, the Commission differed consideration of the Communication pending the Complainant's submission on Admissibility. The Secretariat also reminded the Complainant about the clarification sort in its letter of 22 April 2016.
21. By letter and Note Verbale dated 13 June 2017, the Secretariat informed the Complainant and the Respondent State that during its 60th Ordinary Session which took place from 8 to 22 May 2017, in Niamey, Niger, the Commission differed consideration of the Communication pending the Complainant's submission on Admissibility. The Secretariat further reminded the Complainant about the clarification sort in its letter of 22 April 2016.



22. By letter dated 20 September 2017, the Complainant was informed of the Commission's decision to grant a further extension of thirty (30) days to submit on Admissibility failing which the Commission would proceed to strike out the Communication.
23. The Complainant received the letter on 05 October 2017 but did not submit on Admissibility within the deadline stipulated. The deadline for submission expired on 5 November 2017.

Analysis of the Commission on Strike-out:

24. Rule 105 (1) of the Rules of Procedure of the Commission, 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.
25. Rule 113 of the Commission's Rules of Procedure provides that when a deadline is fixed for a particular submission, either party may apply to the Commission for extension of the stipulated period and the Commission may grant the said application.
26. 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 **27 December 2015**. However, the Complainant did not present any evidence and arguments within the stipulated time.
27. During its 22nd Extraordinary Session which took place from 29 July to 7 August 2017, in Dakar, Republic of Senegal, the Commission considered the draft decision to strike out the Communication but decided to grant the Complainant a further period of **30 calendar days** from the date of notification (i.e. **20 September 2017**), to submit evidence and arguments on the Admissibility of the above-mentioned Communication, in accordance with Rule 105(1) of the Commission's Rules of Procedure. This is because the Commission was not satisfied that the Complainant has received the earlier correspondences based on the evidence on record.
28. More than three (3) months has lapsed since the expiry of the last extended period and no evidence and arguments have been submitted by the Complainant on the Admissibility of the Communication. There is also evidence on record that the Complainant has received the letter granting further extension of time to submit on Admissibility.
29. In light of the above, the Commission therefore finds that the Complainant has shown no interest in prosecuting this Communication.
30. It is important to mention that the Commission has in its earlier jurisprudence, struck out Communications for lack of diligent prosecution in *Communications 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 412/12- Journal Echos du Nord v The Republic of Gabon* and *Communication 387/10- Kofi Yamagnane v Togo*, amongst others.

Decision of the Commission:

31. In view of the above, the Commission decides to strike out the Communication for lack of diligent prosecution.

Done in Banjul, Republic of The Gambia, this 23rd Extra-Ordinary Session, held from 13 to 22 February 2018

ACHPR