

Rapporteur:

32nd Session: Commissioner Johm

33rd Session: Commissioner Johm

Summary of Facts:

1. The complaint is filed by Stephen O. Aigbe, Master Warrant Officer (MWO) in the Nigerian Army.
2. The complaint details the mistreatment of the Complainant by the Nigerian Army. On 17 January 1996, the Complainant claims that he was removed from his office, arbitrarily detained, and accused of trying to overthrow General Abacha. On 12 April 1996 and 12 September 1996, he was arraigned on 12 counts of mutiny, a capital charge. He alleges that despite certain authorities' observations that the charges were false, he was not acquitted and the charges are still pending in a faulty trial process. The "rule of laws and court procedures" should have been "followed and exhausted" by officials before "a Judge takes far reaching decisions on any matter." According to the Complainant, the proceedings violated the rule of law by not following armed forces regulations, which call for investigation and then court martial.
3. The Complainant also alleges several violations in relation to his terms of military service. He alleges that "several colleagues burgled his barracks" and despite his complaint to the relevant authority, his case was never investigated. In addition, he was denied living accommodations in the barracks for two years and was denied "the right to reach [his] pay point since July 1999" and to take his leave for six years.
4. The Complainant also claims he faces death threats from "subordinate soldiers and the affluent Generals." He claims "harassment, intimidation, humiliation, embarrassment, discrimination, annihilation and threats to [his] life." In addition to death threats, he alleges daily occurrences of "other acts of organized open intimidation [by soldiers and generals]."
5. He alleges that he has sought redress before several authorities, pursuant to Armed Forces Decree No. 105 of 1993, but certain officers were obstructing his access to justice. Despite his detailed submissions, the authorities have failed to provide adequate redress for his grievances and have bluntly refused to give him "audience at any level," violating military and constitutional procedure. He claims that bribery played a role in keeping his case from being heard.
6. He further alleges that his family has been involved in occult practices and that members of the military, who are also involved, conspired against him. He notes that

he wrote “so many petitions and protest letters to the Nigerian Army Council” and to the Oputa Panel.

Complaint

7. The Complainant alleges violations of Articles 4, 5, 6, and 7(1)(a), (b), (c), and (d) of the Charter.
8. In his prayer for redress, the Complainant requests that the African Commission:
 - Intervene quickly to save him and his family from “the risk of assassination or extra-judicial killing or torture to death”;
 - Help restore contact with his children after “full and impartial investigations into all allegations of state agents in his separation [from his children], cult acts and practices for government by [his] children and [his] legal wife”;
 - Write to the Nigerian Attorney General and Minister of Justice to request an investigation into the mutiny allegations that he faces;
 - Call for an independent, impartial and public investigation into the burgling of his barracks;
 - Call for a probe into the “reallocation of [his] motorcycle loan to another soldier”;
 - Assist him in seeking asylum outside Nigeria since he faces continuous persecution there; and
 - Send him 10,000 Naira to enable him to eat.

Procedure

9. The undated Complaint was received at the Secretariat on 14th June 2002 by mail.
10. On 24th July 2002, the Secretariat wrote to the Complainant informing him that the Complaint was registered and that it will be considered at the African Commission’s 32nd Ordinary Session, which was scheduled to take place from 17th to 31st October 2002 in Banjul, The Gambia.
11. At its 32nd Ordinary Session held from 17th to 23rd October 2002 in Banjul, The Gambia, the African Commission considered the complaint and decided to be seized thereof.
12. On 4th November 2002, the Secretariat wrote to the parties to inform them of this decision and requested them to forward their submissions on admissibility before the 33rd Ordinary Session of the African Commission.
13. At its 33rd Ordinary Session held from 15th to 29th May 2003 in Niamey, Niger, the African Commission considered this communication and declared it inadmissible.

LAW

Admissibility

14. Article 56 (5) of the African Charter requires that "*a communication be introduced subsequent to exhaustion of local remedies, if they exist, unless it is obvious to the Commission that the procedure for such recourse is abnormally prolonged*".
15. The Complainant had alleged that he sought redress before "several authorities." The African Commission has no indication in the file before it that there was any proceeding before the domestic courts on the matter.
16. The Complainant has, despite repeated requests, however, not furnished his submissions on admissibility, especially on the question of exhaustion of domestic remedies.

For these reasons, and in accordance with Article 56(5) of the African Charter, the African Commission,

Declares this communication inadmissible due to non-exhaustion of local remedies.

*Done at the 33rd Ordinary Session held in Niamey, Niger,
from 15th to 29th May 2003*