

Application No. 004/2011

African Commission on Human and Peoples' Rights v. Great Socialist People's Libyan Arab Jamahiriya

Summary of facts

1. The application is submitted by the African Commission on Human and Peoples' Rights (the Applicant) against the Great Socialist People's Libyan Arab Jamahiriya (the Respondent).
2. According to the Applicant, it received successive complaints against the Respondent alleging that, following the detention of an opposition lawyer, peaceful demonstrations took place on the 16th of February 2011 in the Eastern Libyan city of Benghazi, that on the 19th of February 2011, there were other demonstrations in Benghazi, Al Baida, Ajdabiya, Zayiwa and Derna, which were violently suppressed by security forces who opened fire at random on the demonstrators killing and injuring many people, that Respondent's security forces engaged in excessive use of heavy weapons and machine guns against the population, including targeted aerial bombardment and all types of attacks, and that these actions amount to serious violations of the right to life and to the integrity of persons, freedom of expression, demonstration and assembly.
3. According to the Applicant, these actions amount to serious and widespread violations of the rights enshrined in Articles 1, 2, 4, 5, 9, 11, 12, 13 and 23 of the African Charter;

Relief sought

4. The Applicant is seeking the following relief:
 - Finding that the Respondent has violated Articles 1, 4, 9 and 10 of the African Charter on Human and Peoples' Rights;
 - Urge the Respondent to set up an exhaustive inquiry and prosecute the authors of these violations ;
 - Urge the Respondent to review its legislation in order to :
 - a) Make provision for adequate and effective measures against the excessive use of force ;
 - b) Make the arbitrary use of force to be a punishable offense; and
 - c) Establish adequate norms regulating the organisation of demonstrations.
 - Urge the Respondent to include human rights in the training programmes of its security forces;
 - Pay equitable compensation to the relations of persons who lost their lives or were wounded during the demonstrations.

Procedure

5. The application was received at the Registry of the Court on 16 March 2011 and registered on 18 March 2011.
6. On 22 March 2011, the Registry forwarded copies of the application to the Respondent in accordance with Rule 35 (2) (a) of the Rules of Court, and invited the Respondent to indicate, within thirty (30) days of receipt of the application, the names and addresses of its representatives, as well as to respond to the application within sixty (60) days, in accordance with Rule 37 of the Rules.

7. By letter dated 22 March 2011, the Registry informed the Chairperson of the African Union Commission, and through him, the Executive Council of the African Union, and all the State Parties to the Protocol, of the filing of the application, in accordance with Rule 35 (3) of the Rules;
8. By letter dated 23 March 2011, the Registry forwarded copies of the application to the complainants that seized the African Commission, in accordance with Rule 35 (2) (e) of the Rules;
9. By letter dated 23 March 2011, the Registry informed the parties to the application that, given the extreme gravity and urgency of the matter, the Court may, on its own accord, and in accordance with Article 27(2) of the Protocol and Rule 51(1) of its Rules, issue provisional measures.
10. On 25 March 2011, the Court adopted an order for provisional measures which the Respondent acknowledged on 02 April 2011.
11. On 13 April 2011, the Registry of the Court received the reply of the Respondent pertaining to the order for provisional measures which the Court adopted.
12. On 18 April 2011, the Respondent sent the names of its representatives to appear before the Court with respect to the application.
13. On 18 May, 2011, the Registry received a letter from the respondent requesting for a three weeks extension of time to make its response to the application.
14. On 8 June, 2011, during the 21st Ordinary Session and before the Court had considered the request for an extension of time, the Registry received both the Respondent's indication of the name and address of its representative, as well as its response to the application, dated 7 June, 2011.

15. During its 21st Ordinary Session, the Court decided to extend the deadline for the Respondent to respond up to 8 June, 2011, when the Court was seized with the letter of authorization and the response by the Respondent.
16. On 18 June 2011, the Respondent's reply was forwarded to the Applicant and the latter given 30 days to respond.
17. By letter dated 27 June 2011, the applicant requested for an extension of time for the submission of its reply, to 30 September 2011.

Summary of the Respondent's response

18. In its response, the Respondent refuted all allegations of violation of human rights, including indiscriminate attacks of civilians. According to the Respondent, it has taken all necessary measures aimed at protecting civilians from attacks carried out by armed groups that have seized arms and ammunitions found in military barracks. According to the Respondent, these armed groups received assistance from Al Qaeda and other foreign military organizations and it (the Respondent) was forced to exercise its right to self-defence pursuant to Article 51 of the United Nations Charter.
19. The Respondent submits further that, a small group of persons protesting against the arrest of a lawyer who violated the provisions of a law governing rallies and demonstrations promulgated in 1956 triggered the events. According to the Respondent, the State reacted positively to the demands of the protesters and set free the said lawyer after he undertook to respect the rule of law. However, he did not keep his promise and was behind the disturbances and unrest which Al-Qaeda took advantage of.

20. The Respondent adds that these engendered the mobilisation of a great many youths who attacked barracks, airports and prisons, and after setting prisoners free, the youths engaged in armed conflict with State authorities, and the State was forced to implement Law No.38 which authorizes the State to use armed forces in the face of armed attacks on property and persons.

21. According to the Respondent, the above-mentioned events were not covered by the media, but satellite stations broadcast incorrect or false information, and mindful of the danger such lies and rumours could pose to the political and legal position of the country within the international community, it took the initiative from the very beginning to appeal to the Human Rights Council, the United Nations Security Council, the African Union...requesting the creation of regional and international commissions of inquiry, but to its utter dismay, only the African Union responded favourably.

22. The Respondent further invites the Court to reconsider its decision, undertake its own investigations and charge the applicant for propagating lies and issuing false statements.

For further information, please contact:

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