

**Communication 374/08- Morin Family (Represented by Small Island Institute) v.
Seychelles**

Summary of Facts

1. The Complaint was received by the Secretariat of the Commission on 17 April 2009, by Small Island Institute (the Complainant) on behalf of Mr. Cherubin Morin and his Son Mr. Jean-Pierre Morin (the Morin Family), against the government of the Republic of Seychelles.
2. The Complainant allege that the Morin Family have been the target of government persecution and intimidation as a result of which an Enforcement Notice was issued on the order of a certain Minister Morgan, to demolish their pig and poultry farm, notwithstanding:
 - (i) that their farms have been confirmed by relevant authorities as meeting all environmental, health and safety requirements; and
 - (ii) the provision of the law that the planning permission which they are accused of not having may be issued to them retroactively if they satisfy all requisite requirements.
3. The Complainant further alleges that the Morin Family have unsuccessfully appealed against the Enforcement Notice and that the judge who sentenced Mr. Morin to two years imprisonment for punching a man who threatened his son and also heard the case of the compulsory acquisition of his property in Market Street is the same judge who decided to hear the Planning Authority case against the Morin family, denying the application of the Morin's lawyer that it should be passed to another judge, because of the two previous cases which were heard by him.
4. The Complainant avers that the Morin family have reached the end of the legal process and is faced with the possibility of seeing their lifelong hard investment reduced to rubble.
5. The Complainant further avers that the farm is an important part of national food production and its demolition would cause serious consequences not only to the Morins but to the Seychellois people.

Procedure

6. Letter to His Excellency the President of Seychelles dated 22 April 2009, informing him of the Communication and the request for provisional measures by the Complainants and requesting him to suspend the implementation of the ruling of the Court of Appeal of Seychelles ordering the demolition of the Complainants' pig and poultry farm.
7. By email dated 28 April 2009, the Secretariat informed the Complainants of the Commission's letter and attaching the same;
8. By Note Verbale dated 10 May 2009, the Secretariat responded to the Respondent State's objections to the Commission's provisional measures and by letter dated 11 May 2009, the Secretariat acknowledged receipt of the Complaint and informed the Complainants that the same had been tabled before the Commission for Seizure;
9. By letter and Note Verbale dated 4 June 2009, the Secretariat informed both parties that at its 45th Ordinary Session, the Commission considered the Complaint and decided to be seized of it and requested the Complainant to forward its submissions on admissibility;
10. By letter and Note Verbale dated 30 November 2009, the Secretariat informed both parties that during its 46th Ordinary Session, the Commission decided to defer consideration on admissibility of the Communication to its 47th Ordinary Session pending the submission of the Complainant on admissibility;
11. By letter and Note Verbale dated 04 June 2010, the Secretariat informed the both parties that during its 47th Ordinary Session, the Commission decided to defer consideration on Admissibility of the Communication to its 48th Ordinary Session pending the submission of the Complainant on admissibility; and reminding them to submit;
12. By letter dated 22 September 2010; the Secretariat responded to the Complainant's request for advice on how to proceed with the Communication and reminding them to submit their admissibility arguments;
13. By letter and Note Verbale dated 7 December 2010, the Secretariat informed both parties that during its 48th Ordinary Session, the Commission decided to defer consideration on admissibility of the Communication to its 49th Ordinary Session pending the submission on admissibility by the Complainant and reminding them to submit;
14. By letter and Note Verbale dated 19 May 2011, the Secretariat informed both parties that during its 49th Ordinary Session, the Commission decided to defer

consideration on admissibility of the Communication to its 50th Ordinary Session pending the submission on admissibility by the Complainant and reminding them to submit;

15. By Note Verbale and letter dated 12 August 2011, the Secretariat acknowledged receipt of the Respondent State's submission on admissibility and forwarded same to the Complainant;
16. By letter and Note Verbale dated 9 November 2011, the Secretariat both parties that during its 50th Ordinary Session, the Commission decided to defer consideration on admissibility of the Communication to its 51st Ordinary Session pending the Complainant's submission on admissibility;
17. By letter and Note Verbale dated 21 May 2012, the Secretariat informed both parties that during its 51st Ordinary Session, the Commission decided to defer consideration on admissibility of the Communication to its 52nd Ordinary Session pending the Complainant's submission on admissibility and reminding them to submit;
18. By letter dated 16 August 2012, the Secretariat informed the Complainant as a last reminder to forward its submission on admissibility within one (1) month of notification, failure of which the Commission will proceed to strike off the Communication;
19. By letter and Note Verbale dated 19 November 2012, the Secretariat wrote to both parties informing them of the decision of the Commission to strike out the Communication for lack of diligent prosecution;
20. The Secretariat having checked its records, realized that the last reminder letter sent to the Complainant was not transmitted and by letter and Note Verbale dated 14 December 2012, the Secretariat informed both parties that it checked the records and confirmed that the letter containing the last reminder to the Complainant was not transmitted and that the matter will be tabled before the Commission at the 13th Extra-Ordinary Session;
21. By letter and Note Verbale dated 1 March 2013, the Secretariat informed both parties that at its 13th Extra-Ordinary Session which took place, the Commission decided to request the Complainant as a last reminder to forward its submission on admissibility within one (1) month of notification, failure of which the Commission will proceed to strike out the Communication.

Analysis of the Commission to strike out

22. Rule 105(1) of the Commission's Rules of Procedure 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.
23. Rule 113 provides that when a deadline is fixed for a particular submission, either party may apply to the Commission for extension of the period stipulated. The Commission may grant an extension of time for a period not longer than one (1) month.
24. To date, the Complainant has not (i) made any admissibility submissions, (ii) responded to several requests from the Commission for submissions, including the last one dated 1 March 2013 and (iii) has not requested for an extension of time to submit.
25. Consequently the Commission does not have sufficient evidence upon which to make a determination on the admissibility of the Communication.

Decision of the Commission

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

Done in Nairobi, Kenya, at the 14th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, 21-25 July 2013.