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| 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 | | |

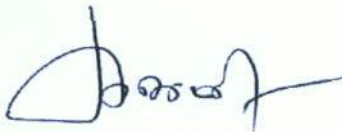
Communication 680/17

**Nnamdi Kanu & Indigenous People of Biafra
(Represented by Adulbert Legal Services)**

v

The Federal Republic of Nigeria

*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*



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Commissioner Soyata Maiga
Chairperson of the African Commission
on Human and Peoples' Rights




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Dr. Mary Maboreke
Secretary to the African Commission on
Human and Peoples' Rights

Decision of the African Commission on Human and Peoples' Rights on Seizure

Communication 680/17: Nnamdi Kanu & Indigenous People of Biafra (Represented by Adulbert Legal Services) v The Federal Republic of Nigeria

Summary of the Complaint:

1. The Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) received a Complaint on **14 December 2017** from Nnamdi Kanu (the Victim) on behalf of himself and the Indigenous People of Biafra (IPOB), represented by Adulbert Legal Services (The Complainant).
2. The Complaint is submitted against the Federal Republic of Nigeria (the Respondent State) a State Party to the African Charter on Human and Peoples' Rights (the African Charter), having ratified the same on 22 June 1983.
3. The Complainant alleges that on 14 October, 2015, the Victim was arrested in Lagos, Nigeria, a few days after his arrival from his base in London, United Kingdom. He was subsequently charged with offenses relating to his broadcasts on radio Biafra from its location in London and his agitation for a referendum on the creation of a separate State of Biafra from Nigeria.
4. The Complainant avers that during the course of the Victim's pre-trial detention, the Victim was granted bail several times by the High Court of the Federal Republic of Nigeria but the Government of the Federal Republic of Nigeria disobeyed the court orders and continued to detain the Victim. The Complainant further avers that in the course of time and after 18 months in detention, the Victim was finally released on bail granted by Justice Binta Nyako, Honorable Judge of the Federal High Court of Nigeria.
5. The Complainant states that pursuant to the Victim's release, he returned to his ancestral home at Afara-Ukwu in Umuahia, the capital of Abia State of Nigeria, where he stayed and awaited his next court date scheduled for 17 October, 2017.
6. The Complainant further states that as from the date of the Victim's release from detention to the date this Complaint was drafted, the Victim has not been charged with any new offense and the court has not ordered for his arrest.
7. The Complainant claims that on or about 12 September, 2017 to 15 September 2017, the Nigerian army surrounded the Victim's home at Afara-Ukwu, Umuahia, Abia State of Nigeria and launched a series of armed attacks/invasion with the use of life bullets and other lethal munitions. The Complainant also claims that the Victim, his parents, his siblings, children, women, the elderly, and numerous visitors at the said home during the attacks and were marooned and trapped inside the premises for two days during the attacks.



8. The Complainant also claims that, at the end of the attacks, the Victim's home was badly damaged, several people were killed, others wounded, and the Nigerian Army "captured" several people and took them to an unknown location.
9. The Complainant alleges that since after the attacks, the public and those who normally would have heard from the Victim have not seen or heard from him and the Nigerian army has refused to disclose whether he was killed, wounded or taken into their custody.
10. The Complainant further alleges that during the course of the said army attacks, the Nigerian army, in a published statement, declared IPOB a terrorist organisation, apparently to justify its indiscriminate use of the lethal force against the Victim and members of the IPOB in Umuahia, Abia State and other States of the Southeast of Nigeria, which the Respondent State has, without lawful purpose, subjected to military occupation since 10 September, 2017.
11. The Complainant submits that the Legal Representative in his capacity as counsel to the Victim, transmitted separate Petitions to the Attorney-General of Nigeria and the President of the Senate, variously protesting the military occupation, the army attacks against the Victim, and the army's unconstitutional and dangerous declaration of IPOB as a terrorist organisation. The Complainant states that, the content of the attachments, wherever relevant, is incorporated as part of the Complaint.
12. The Complainant also submits that the President of the Senate of the Federal Republic of Nigeria publicly declared that it is unconstitutional for the Nigerian army to declare IPOB a terrorist organization.
13. The Complainant avers that on 21 September, 2017, Justice Kararati of the Nigerian Federal High Court, Abuja, made an ex parte order (without prior notice to IPOB) declaring IPOB a terrorist organization and further ordering its proscription pursuant to an ex parte (without notice) Application brought before the court on 20 September, 2017 by the Attorney-General of Nigeria. The Complainant further avers that, this order contravened a previous and subsisting final order declaring that IPOB is not a terrorist organisation, that it is not an unlawful society and that its members including its leader, the Victim, have not committed any act of terrorism within the meaning of Nigeria's Terrorism Prevention Act.
14. The Complainant claims that the Attorney General of Nigeria began to take formal and executory steps to gazette IPOB as a terrorist organisation. These steps include declaring as criminals/terrorists the millions of IPOB members worldwide; declaring as criminal/terrorist the leader of IPOB, the Victim, interdiction and confiscation of monies, bank accounts and property of IPOB, its members and its leader; the impending prosecution of millions of IPOB members in Nigeria; that IPOB is an unlawful society; the inability of IPOB members to participate in civic and political affairs in Nigeria, the



stigmatization of millions of IPOB members worldwide; the wholesome defamation of IPOB members as terrorists worldwide; and other negative impacts yet to be determined.

15. The Complainant also claims that IPOB is a nonviolent group that operates in the open worldwide and in accordance with the law, and in fact is universally respected in many countries of the world where it is also registered as a lawful organisation. The Complainant further claims that IPOB's leader, the Victim, is nonviolent and, prior to his current political trial in Nigeria, he has never been convicted of any crime in Nigeria and the United Kingdom where he has variously resided since attaining adulthood. The Complainant further claims that some members of the International Community, notably United States and United Kingdom have publicly rejected the said court order designating IPOB a terrorist organisation.
16. The Complainant alleges that the declaration of IPOB as a terrorist group in the Federal Republic of Nigeria is discriminatory because there are other non-Igbo organizations in Nigeria, some violent, some not, all geared to fighting/agitating for one right or the other for members of their ethnic group, but which have not been declared terrorist organisation(s). These organisations include the Arewa Youths (mainly Hausa/Fulani ethnic stock), the Odua People's Congress (mainly of Yoruba ethnic stock), Miyeti Allah or Fulani herdsmen (mainly of Fulani ethnic stock), Niger Delta Avengers (mainly Ijaw ethnic stock) etc.
17. The Complainant avers that the declaration that IPOB is a terrorist organisation and that its members commit terrorist acts has empowered and emboldened the Nigerian army and other security agencies, acting under colour of law, to harass, intimidate, arrest or even kill or torture IPOB members and any member of the Igbo ethnic group suspected to be an IPOB member. The Complainant further avers that if it is assumed that the Victim (as supposedly the leader of the terrorists) managed to retreat to safety alive, he remains in imminent danger of being shot and killed on sight by the Nigerian or other security forces who are still present in various checkpoints in the Victim's homestead Afara-Ukwu, Umuahia, Abia, Nigeria and in all the five States of Southeast of Nigeria.
18. The Complainant alleges that millions of IPOB members outside Nigeria are in imminent and present danger of being harassed, intimidated, interdicted, arrested or even killed as terrorists upon their return to Nigeria. The Complainant further alleges that money, bank accounts, other monetary instruments, chattels and real properties belonging to the Victim, IPOB and its members are in imminent danger of being confiscated by the Federal Republic of Nigeria.
19. The Complainant finally alleges that given the fact that IPOB members inside or outside Nigeria are all facing imminent threats and the danger of being harassed, intimidated, interdicted, arrested or even killed as terrorists, the Complainant strongly believes that the Victim, IPOB and its members in Nigeria and worldwide need protection so that no



further action should be carried out by the Nigerian Government to cause irreparable damage to them.

Articles alleged to have been violated

20. The Complainant alleges that the Respondent State has violated Articles 2, 3,4,5,6,7, 9,10,11,12,14,19,20 of the African Charter.

Prayers

Provisional Measures

21. The Complainant requests the African Commission on Human and Peoples' Rights (the Commission) to:

- (i) Invoke its powers under Rule 98 of its Rules of Procedure and adopt Provisional Measures, urging the Respondent State not to take any further action that will cause irreparable damage to the Victim, IPOB and its members until the decision of this case has been rendered by the Commission;
- (ii) To adopt other urgent measures as it sees fit in the circumstances of this case to protect the Victims in the interim;
- (iii) To take such further and final measures consistent with its powers and discretions to protect the Victims.

Procedure

22. The Secretariat received the Complaint on **14 December 2017** and acknowledged receipt on **27 December 2017**, informing the Complainant that the Complaint will be tabled before the Commission for consideration.

Analysis of the Commission on Seizure and Provisional Measures.

23. The Commission is of the view that the Complaint contains all the information required under Rule 93(2) of its Rules of Procedure.

24. The Commission further finds that the Complaint reveals *prima facie* violation of the African Charter.

25. The Commission is of the view that the request for Provisional Measures meets the criteria provided under Rule 98(i) of the Rules of Procedure of the Commission, in respect to Paragraph 21(i) above.



Decision of the Commission on Seizure and Provisional Measures

26. The Commission decides to:
- i) Be seized of this Communication; and
 - ii) Grant the request for provisional measures calling on the Respondent State not to take any further actions so as to avoid irreparable damage to the Victim, IPOB and its Members, pending the decision of the Commission on this Communication.
27. The Commission requests the Respondent State to report back on the implementation of the Provisional Measures granted within fifteen (15) days of receipt of this decision in accordance with Rule 98(4) of its Rules of Procedure.
28. The Commission invites the Complainant to present evidence and arguments on Admissibility within two (2) months in accordance with Rule 105 (1) of its Rules of Procedure.

**Done in Banjul, The Gambia at the 23rd Extraordinary Session of the Commission
held from 13 to 22 February 2018**

