

CASE OF AKWANGA

UN SPECIAL RAPPORTEUR ON FOLLOW-UP FOR THE UN HUMAN RIGHTS COMMITTEE SUBMISSION ON IMPLEMENTATION

15 OCTOBER 2024

I. Background

1. This submission concerns the torture, inhuman treatment in detention, arbitrary detention and violation of due process of Mr Ebenezer Derek Mbongo Akwanga. REDRESS has prepared this submission as legal representative of Mr Akwanga.
2. The Human Rights Committee (the Committee or HRC), acting under Article 5(4) of the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), adopted its Views on the case of Mr Akwanga on 22 March 2011.¹ The Committee held that the State of Cameroon (the State or Cameroon) had violated Articles 7, 9(2), 9(3), 9(4), 10(1), 10(2) and 14 of the ICCPR, and that the State was under an obligation to provide Mr Akwanga “with an effective remedy, which should include
 - a) a review of his conviction with the guarantees enshrined in the Covenant,
 - b) an investigation of the alleged events and prosecution of the persons responsible,
 - c) as well as adequate reparation, including compensation.

The State party is under an obligation to avoid similar violations in the future”².

II. Follow-up on Committee Views

3. According to the Committee’s follow-up progress reports on individual communications, recent submissions of the State, of REDRESS (on behalf of Mr Akwanga), and of other civil society groups, the history can be summarised as follows.
4. On 19 June 2014, Cameroon submitted that:

The State party is willing to implement the Committee’s recommendation. New proceedings can be initiated as soon as the author appeals the judgement which sentenced him to 20 years imprisonment. If the author’s leave to appeal is granted, a full re-examination of the case will be conducted.

An investigation will be undertaken once the author files a complaint for torture and ill-treatment. This procedure requires the physical presence of the author for cross-examination purposes.

¹ Annex 1: HRC, Communication No. 1813/2008, *Akwanga v Cameroon*, Views adopted on 22 March 2011 (CCPR/C/101/D/1813/2008, 19 May 2011).

² *Ibid.*, para 9.

The author has escaped from prison, and an arrest warrant was issued against him. The above mentioned procedures will only be opened once the arrest warrant against him is executed. Compensation may also be awarded, based on available resources and the results of the investigations.³

5. The Committee assessed this reply as being “C2” according to their follow-up assessment criteria, which means that the reply/action was “not satisfactory”, on the basis that a reply had been received from the State but that the reply was “not relevant to the recommendation[s]” made in its Views. The Committee therefore decided to follow up the ongoing dialogue.⁴
6. On 31 July 2014, REDRESS submitted its response on behalf of Mr Akwanga, in which it stated that:

The State party is not implementing the Committee’s Views in good faith. The State party has replied to the counsel’s follow-up communication over a year after the supposed deadline, demonstrating a lack of interest in taking steps to implement the Committee’s recommendations. The State party has not dealt with the compensation claim. The obligation to provide compensation is not related to the outcome of the investigation and a proper remedy must be provided promptly and simultaneously with all the other measures. The State party has not started a proper criminal investigation. Furthermore, it has requested the physical presence of the author, against whom an international arrest warrant is in force, in the country with the aim of arresting him and without considering the risk of harassment to which he could be exposed.⁵
7. The Committee transmitted such submission to the State on 14 October 2014 and decided to follow up the ongoing dialogue. The response of the State to REDRESS’s submission was received on 29 October 2014. Yet, the submissions provided by the State were identical to those provided on 19 June 2014 – this was not the first time that the State had acted in this way, having behaved similarly with respect to the case of Mr Akwanga in 2012.⁶ By acting in this way, the State again ignored the contents of REDRESS’ submissions on behalf of Mr Akwanga by simply repeating its position as if nothing had previously been submitted. Moreover, such conduct neither respects the proceedings at the Committee (or the unanimous Views issued on 22 March 2011) nor Mr Akwanga’s right to justice.
8. In its May 2017 *Follow-up Report*, the Committee noted that, in the case of Mr Akwanga, there had been no further response and that there was “follow-up dialogue ongoing”.⁷
9. In September 2017, REDRESS submitted a shadow report to the Committee (for consideration at its 121st session) in which it addressed the failure of Cameroon to

³ HRC, *Follow-up progress report on individual Communications*, 5 September 2014, CCPR/C/112/R/3, p. 10.

⁴ *Ibid.*

⁵ HRC, *Follow-up progress report on individual communications received and processed between June 2014 and January 2015*, 29 June 2015, CCPR/C/113/3, p. 8. The report confirms that this response was transmitted to the State on 14 October 2014.

⁶ See Annex 3: REDRESS, Letter of 9 February 2015 to Mr Salama (UNHCHR Human Rights Treaties Division).

⁷ HRC, *Follow-up progress report on individual Communications*, 30 May 2017, CCPR/C/119/3, p. 38.

implement views in individual communications, including in the case of Mr Akwanga.⁸ In its Concluding Observations, the Committee concluded (generally, not just in relation to Mr Akwanga's case) that it "regrets the often significant delays in the implementation of its Views, in particular with regard to compensation (art. 2)", and recommended that the State party should "take all appropriate measures to give full effect to the Committee's Views without undue delay and to ensure that an effective remedy is available to persons whose rights under the Covenant have been violated."⁹

10. In its recent note on implementation status of HRC views, the Centre for Civil and Political Rights reiterated the above concerns and suggested that, in the List of Issues Prior to Reporting (LOIPR), the Government of Cameroon be requested to provide information on the measures taken to implement the recommendations under the Committee's views, including in Mr Akwanga's case.¹⁰
11. As representative of Mr Akwanga, REDRESS would like to express its concern as, since the Committee's Views were adopted in 2011, no progress whatsoever has been made towards their effective implementation despite REDRESS' consistent efforts to work with the Committee, other UN mechanisms and Cameroon to achieve implementation. We have sought to engage the State through the Committee's Follow Up Procedure and have exchanged communications with the State through this process to no avail. We have also, along with Mr Akwanga, met with OHCHR representatives in Geneva, and engaged with further correspondence with the OHCHR in an attempt to assist and contribute towards achieving implementation of the Views adopted by the Committee. As of today, over 13 years since the Views were adopted by the Committee, Mr Akwanga still has not received any remedy. Even now, Cameroon has failed to engage with the points raised by Mr Akwanga (via REDRESS) on 31 July 2014.

III. Remedies owed

12. First and foremost, REDRESS would like to emphasize that the State, as signatory to the ICCPR and the Optional Protocol, has the obligation to use whatever means lie within its power to give effect to the Views issued by the Committee. Such Views are legal in character and represent an authoritative determination made by the recognised interpreter of the ICCPR.¹¹ By ratifying ICCPR and its Optional Protocol, States accept the authority of the Committee in this regard and agree to respect and implement its Views in good faith.
13. REDRESS is aware that the State has set up an Inter-ministerial Committee in charge of monitoring the implementation of the recommendations and/or decisions taken by international and regional human rights promotion and protection mechanisms.¹² Yet,

⁸ See Annex 4: REDRESS, *Shadow report: The failure of Cameroon to implement views in individual communications*, submitted to UN Human Rights Committee 121st Session, September 2017.

⁹ HRC, *Concluding observations on the fifth periodic report of Cameroon*, CCPR/C/CMR/CO/5, 30 November 2017, paras. 5-6.

¹⁰ See Annex 6: Centre for Civil and Political Rights (CCPR), *Note on implementation status of HRC views*, 22 August 2024

¹¹ HRC, *General Comment No 33: The Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights*, 5 November 2008, CCPR/C/GC/33, paras. 11 and 13.

¹² Set up by Order No. 81/CAB/PM of 15 April 2011; Decision No. 14/SG/PM of 9 August 2011 appointed members of the Technical Secretariat of the Committee, and the Secretariat held its first

from REDRESS's experience in the case of Mr Akwanga, it appears that the Inter-ministerial Committee does not provide the necessary transparency and visibility to the implementation process. Rumours of implementation steps are more prevalent than direct information about the actual steps taken. It has furthermore been brought to REDRESS's attention that the Inter-ministerial Committee is inaccessible to victims seeking to enforce the decisions of international and regional human rights mechanisms.

14. As explained in more detail below, the State, rather than accepting the Views and providing the remedies owed, seems to have tried to reopen the matter and appears to have shown a lack of acknowledgment of its responsibility under the ICCPR.

III.1. Review of Mr Akwanga's conviction

15. As regards this remedy, the State has said that it first requires Mr Akwanga to appeal the judgement which sentenced Mr Akwanga to 20 years imprisonment (and for him to obtain leave to appeal). The State has not proposed any other mechanism by which the conviction could be reviewed.
16. The Views of the Committee make clear that one of the reasons for the need to review the conviction is the State's "failure to demonstrate the need to rely on a military court in this case".¹³ Hence, the appeal of the judgment which sentenced Mr Akwanga to 20 years imprisonment cannot constitute a review of the conviction which was requested by the Committee, as the Committee requires an examination and explanation of why Mr Akwanga was tried before a military court, taking the Views of the Committee into consideration. Indeed, the jurisdiction of the military court was challenged before the Supreme Court on 10 December 1997, but it appears that this was never adjudicated upon.¹⁴
17. If there are no other procedures available under domestic law that could allow the State to comply with the Views of the Committee, the State should urgently take steps to amend its legislation in order to provide a mechanism which would allow Mr Akwanga's conviction to be reviewed.

III.2. Investigation of the events and prosecution of those responsible

18. The State has sought to make its investigation of the events suffered by Mr Akwanga and the prosecution of those responsible, dependent on i) Mr Akwanga filing a complaint (in person) for torture and ill-treatment, and ii) the execution of the arrest warrant against Mr Akwanga, which also necessarily requires his physical presence in Cameroon.
19. This requirement contravenes the ICCPR, as, under the Covenant, States have an obligation to investigate allegations of torture *ex officio*.¹⁵ Such investigations must

meeting on 13 September 2011 and the 7th on 26 June 2013. See HRC, *Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Fifth periodic reports of States parties due in 2013 (Cameroon) (2016)*, CCPR/C/CMR/5.

¹³ HRC, Communication No. 1813/2008, *Akwanga v Cameroon*, Views adopted on 22 March 2011, para 7.5.

¹⁴ *Ibid.*, para 3.6.

¹⁵ HRC, *General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992, para 14.

not be dependent on any further steps taken by Mr Akwanga. Rather, it is an obligation of the State to conduct investigations when allegations of torture are made. The record of the proceedings before the Committee contains detailed allegations of the facts of torture and other violations suffered by Mr Akwanga, and, if the State could demonstrate that it was committed to undertaking a serious investigation of the allegations, REDRESS would of course cooperate in providing whatever assistance it could in this process.

20. Furthermore, the State's requirement that Mr Akwanga returns to Cameroon to file a complaint and allow himself to be re-arrested is plainly absurd. This would mean that Mr Akwanga would have to voluntarily hand himself over to the authorities found responsible for his arbitrary detention and torture.

III.3. Adequate reparation (including compensation)

21. REDRESS stresses the fact that the Committee has found Cameroon to be under an obligation to provide adequate reparation, including (but not limited to) compensation. Hence, the State should indicate to the Committee and/or Mr Akwanga what amount it is offering to pay him as compensation, in order for him to respond to it. Such amount, of course, would need to properly reflect the egregious nature of the violations to which Mr Akwanga has been subject. Moreover, the State should specify what other forms of reparation, including rehabilitation, satisfaction and guarantees of non-repetition it intends to provide Mr Akwanga.
22. With regard to the compensation, on 30 November 2012 REDRESS sent a letter to the President of the Republic of Cameroon, transmitting Mr Akwanga's claim for US\$ 3,445,904 (three million four hundred and forty-five thousand, nine hundred and four US dollars) in compensation.¹⁶ In the absence of any response whatsoever to this letter, or any offer of compensation to Mr Akwanga, we sent another letter to the President on 12 March 2020 (enclosing a copy of the earlier letter), in a further effort to resolve the compensation element of the reparations. Likewise, we have received no response whatsoever to this letter, or any offer of compensation to Mr Akwanga.¹⁷
23. In its submissions to the Committee, the State has said that the possibility of the payment of compensation to Mr Akwanga will only be considered following the results of the criminal investigations. Given that there is no realistic prospect of a criminal investigation (for the reasons set out above), any mention by the State of compensation is clearly illusory and cannot be considered effective.
24. As to guarantees of non-repetition, this may entail amending State's "domestic legislation so as to ensure that military courts have no jurisdiction whatsoever over civilians, as a way to avoid a repetition of incidents such as those described in the present communication".¹⁸ The State has the obligation to "use whatever means lie within its power to give effect to the Views issued by the Committee".¹⁹

¹⁶ See Annex 2: REDRESS, Letter of 30 November 2012 to President Paul Biya (President of Cameroon).

¹⁷ See Annex 5: REDRESS, Letter of 12 March 2020 to President Paul Biya (President of Cameroon)

¹⁸ Annex 1; see Individual opinion of Committee member Mr Fabián Omar Salvioli, para 14.

¹⁹ HRC, *General Comment No. 33: The Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights*, 25 June 2009, para 20.

IV. Conclusion

25. The case of Mr Akwanga is an example of one in which no concrete steps have been taken to implement in good faith the Committee's Views. No remedy whatsoever has been offered, agreed or implemented.
26. With respect to all three elements of the Committee's Views (review of conviction, investigation, and reparation), the State has sought to make compliance dependent upon Mr Akwanga undertaking steps which i) were not contemplated by the Committee, and/or ii) are virtually impossible for Mr Akwanga to fulfil without significant risk of being subject to further violations of his human rights. The State's position suggests an attempt, if not to reopen the merits of the case before the Committee, then, at least, to interpret the Views of the Committee as non-definitive or non-authoritative.
27. **In light of the State's ongoing failure to comply with the Committee's Views, REDRESS urges the Special Rapporteur on Follow-Up:**
 - a) **not only to provide the State party with a copy of this Submission, but to proactively seek to achieve implementation of the said Views in the present case, and as such:**
 - i) **to designate this case as a focused case and to make public the details of the case in the subsequent follow-up report;**
 - ii) **to request a meeting in Geneva with a representative of the State party;**
 - b) **to ensure that our concerns are included in the LOIPR related to the Committee's forthcoming review of Cameroon (see reference to the existing request under para. 10 above);**
 - c) **to transmit the relevant information to the Human Rights Council in order for the Council to deal with the issue of effective reparation for victims in the next universal periodic review of Cameroon;**
 - d) **to transmit the information to the Special Rapporteur on Torture in order for her to use it in any country visits and/or other contact with Cameroon;**
 - e) **to transmit the information to the Committee against Torture in order for them to use it in their next review of Cameroon (the last review process was cancelled in 2020 due to COVID);**
 - f) **to transmit the information to the relevant OHCHR regional and/or country offices with a request to monitor progress and undertake advocacy to encourage the implementation of its Views.**
28. **Finally, REDRESS would like to express its willingness to arrange a meeting with the Permanent Representative of Cameroon to the United Nations in Geneva and with the Special Rapporteur on Follow-Up to further discuss this Submission.**

ANNEXES

1. Human Rights Committee, *Communication No. 1813/2008, Akwanga v Cameroon*, Views adopted on 22 March 2011 (CCPR/C/101/D/1813/2008, 19 May 2011)
2. REDRESS, Letter of 30 November 2012 to President Paul Biya (President of Cameroon)
3. REDRESS, Letter of 9 February 2015 to Mr Salama (UNHCHR Human Rights Treaties Division)
4. REDRESS, *Shadow report: The failure of Cameroon to implement views in individual communications*, submitted to UN Human Rights Committee 121st Session, September 2017.
5. REDRESS, Letter of 12 March 2020 to President Paul Biya (President of Cameroon)
6. Centre for Civil and Political Rights (CCPR), Note on implementation status of HRC views, 22 August 2024