

SUBSTANCE

The right to life and protection from torture / cruel, inhuman or degrading treatment or punishment – article 4

Right to life

The right to life is the cornerstone on which the realisation of all other rights and freedoms depend and the deprivation of which amounts to the elimination of the holder of these rights and freedoms (*African Commission on Human and Peoples' Rights v Kenya*, application 006/2012, Judgement, 26 May 2017, para 152). The violation of economic, social and cultural rights may engender conditions unfavourable to a decent life. However the deprivation of economic, social and cultural rights may not in itself necessarily amount to a violation of the right to life. A complainant must therefore establish a causal link between the deprivation of economic, social and cultural amenities to the alleged deprivation of the right to life (*African Commission on Human and Peoples' Rights v Kenya*, application 006/2012, Judgement, 26 May 2017, paras 153 & 155). The right to life under article 4 'relates to the physical rather than the existential understanding of the right to life' (*African Commission on Human and Peoples' Rights v Kenya*, application 006/2012, Judgement, 26 May 2017, para 154).

Torture/cruel, inhuman and degrading treatment or punishment

Long delay in hearing an appeal does not constitute torture because he did not prove the delay caused him 'severe mental or physical pain which was intentionally inflicted for a particular purpose. In addition, he is serving a prison sentence pursuant to lawful sanctions imposed on him'. Neither did the delay constitute cruel, inhuman and degrading treatment or punishment as 'it does not meet the threshold of severity, intention and severe humiliation required by the definitions established in jurisprudence'. Delay per se will not constitute cruel, inhuman or degrading treatment or punishment even if it may have caused the individual 'mental anguish' (*Alex Thomas v United Republic of Tanzania*, application 005/2013, judgment, 20 November 2015, paras 145, 146).