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AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

THE MATTER OF

XYZ

V.

REPUBLIC OF BENIN

APPLICATION NO. 009/2020

RULING

26 JUNE 2025

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
The Registrar
LE GREFFIER
ARUSHA TANZANIA
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

CONTENTS

The Court, composed of: Modibo SACKO, President; Chafika BENSAOULA, Vice-President, Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Blaise TCHIKAYA, Stella I. ANUKAM, Imani D. ABOUD, Dumisa B. NTSEBEZA, Dennis D. ADJEI, Duncan GASWAGA – Judges and Robert ENO, Registrar.

In the matter of:

XYZ

Self-represented

Versus

REPUBLIC OF BENIN

Represented by Mr. Iréné ACOMBLESSI, Legal Representative of the Treasury

After deliberation

Renders this ruling:

I. THE PARTIES

1. XYZ (hereinafter referred to as "the Applicant") is a national of Benin. He requested and obtained anonymity for reasons of personal security, after authorisation by the Court. He alleges human rights violations as a result of Law 2019-39 of 31 October 2019 on amnesty for acts committed in connection with the organisation, conduct and outcome of the legislative elections of 28 April 2019 (hereinafter referred to as the "Amnesty Law") and post-election protests in 2019.

2. The Application is filed against the Republic of Benin (hereinafter referred to as "the Respondent State"), which became a party to the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter") on 21 October 1986 and to the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") on 22 August 2014. The Respondent State further deposited the Declaration provided for in Article 34(6) of the said Protocol (hereinafter referred to as "the Declaration") on 8 February 2016, by virtue of which it accepted the jurisdiction of the Court to receive Applications from individuals and Non-Governmental Organisations. On 25 March 2020, the Respondent State deposited with the African Union Commission an instrument of withdrawal of its Declaration. The Court has previously held that this withdrawal has no bearing on pending cases and new cases filed before the withdrawal came into effect one year after its deposit, in this case, on 26 March 2021.[1]

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application that, following the parliamentary elections of 28 April 2019, protests took place in April and May 2019 within the Respondent State. The Applicant submits that the security forces clamped down on the demonstrations with their weapons and caused the death of at least four (4) people.

4. He avers that an investigation was subsequently opened in July 2019 before the Investigating Judge of the 4th Investigating Chamber of the Cotonou First-Class Court of First Instance for voluntary homicide, which resulted in

[1] *Houngue Eric Noudehouenou v. Republic of Benin,* (2020) 4 AfCLR 701, §§ 4-5 and 29 July 2020 *Corrigendum.*

the Order of 24 October 2019 dismissing the case (hereinafter referred to as “the Dismissal Order”).

5. The Applicant further avers that in relation to these facts, the Parliament of the Respondent State, on 31 October 2019, adopted an amnesty law which was declared to be in compliance with the Constitution by the Constitutional Court in its decision DCC 19-503 of 6 November 2019. The Amnesty Law was then promulgated by the President of the Republic. According to the Applicant, the said law violates the right of victims to judicial protection and to have their case heard.

B. Alleged violations

6. The Applicant alleges violation of the following rights and obligations:

   i. Violation of the right to life guaranteed by Article 4 of the Charter;
   ii. Violation of the right to dignity inherent in a human being guaranteed by Article 5 of the Charter;
   iii. Violation of the right to have one’s cause heard guaranteed by Article 7 of the Charter;
   iv. Violation of the obligation to recognise the rights, duties and freedoms enshrined in the Charter and to adopt legislative or other measures to give them effect, provided for under Article 1 of the Charter.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

7. On 13 November 2019, the Applicant filed the Application in addition to Applications he previously filed under Nos. 021/2019 et 022/2019, which the Court decided to consolidate.[2] The Court decided to consider the additional application as separate from the earlier applications and registered it as

[2] Consolidated Applications 021/2019 and 022/2019 are pending before the Court. They were consolidated by Order of 4 July 2019.

such with Reference No. 009/2020. The Registry informed the Applicant of this on 28 February 2020.

8. On 4 March 2021, the Application was served on the Respondent State for its Response within 60 days of receipt.

9. After several extensions of time, the Parties filed their submissions on the merits of the Application and on reparations.

10. Pleadings were closed on 18 May 2023 and the Parties were duly notified.

IV. PRAYERS OF THE PARTIES

11. The Applicant prays the Court to:

i. Declare that it has jurisdiction;
ii. Dismiss all preliminary objections;
iii. Declare the Application admissible;
iv. Hold that the Respondent State violated the rights of the victims to have their case heard by domestic courts, guaranteed by Article 7 of the Charter, insofar as it failed to act with due diligence in the search, investigation and trial of those who were responsible for the atrocities perpetrated across the country during the April 2019 legislative elections;
v. Hold that the Respondent State violated Articles 4 and 5 of the Charter by infringing on the right to life and the right not to be subjected to inhuman, cruel and degrading treatment, insofar as its armed forces fired live ammunition at hundreds of protestors on 1 and 2 May 2019 at Cadjéhoun, in the 12th District of the Cotonou Municipality;
vi. Hold that the Respondent State violated Articles 1 and 7(1) of the Charter by adopting Law No. 2019-39 of 7 November 2019, granting amnesty for criminal acts, misdemeanours, or minor offences committed during the legislative elections of April 2019;

vii. Order the annulment of Law No. 2019-39 granting amnesty for criminal acts, misdemeanours, or minor offences in connection with the 2019 legislative elections insofar as the said amnesty absolves the perpetrators of human rights violations of any responsibility and violates the right of victims to an effective remedy;

viii. Order the Respondent State to set up an independent commission of inquiry to investigate the killings that took place between April and June 2019 in Kilibo, Banté, Cadjéhoun (Cotonou), Savé, Tcharou and Kandi, and to bring to justice the masterminds, perpetrators and accomplices of those atrocities, identify the victims of the pre- and post-electoral violence and pay them fair and adequate compensation;

ix. Order the Respondent State to pay the Applicant One Hundred Million (100,000,000) CFA francs in damages for moral prejudice;

x. Report to the Court, within such time as the Court may direct, on the steps taken to expeditiously execute the judgment on the merits;

xi. Order the Respondent State to pay costs.

12. The Respondent State prays the Court to:

i. Find that the Applicant does not allege any concrete situation of human rights violation;

ii. Consequently, declare that this Court lacks jurisdiction;

iii. Declare that the Court has already found that there is no link between the additional application and the initial application;

iv. Note that the anonymous Applicant is, as of this date, the author of about ten applications on the merits and requests for provisional measures requested as a matter of urgency since 2019 concerning various situations that he claims to be the cause of human rights violations and for various beneficiaries that he cannot identify personally;

v. Find that the same person cannot, at the same time, have a real, natural, present and legitimate interest in causes that are so disparate both materially and temporally;

vi. Find that the anonymous Applicant's multiple applications approach constitutes abuse of court process;

vii. Observe that the anonymous Applicant is using the present Court as a public forum;
viii. Find that the ECHR ruled that a request is deemed abusive if an applicant brings multiple moot applications and that it is contrary to the objective of the right to a remedy;
ix. Find that the Application is abusive and frivolous;
x. Find that the Applicant lacks interest in bringing the Application.
xi. Find that local remedies were not exhausted;
xii. Consequently, declare the Application inadmissible;
xiii. Declare that the Respondent State did not take any measures to limit the protection of the rights guaranteed by the Charter;
xiv. Find that the Amnesty Law was adopted after investigations;
xv. Find that an Amnesty Law does not undermine the protection of patrimonial interests;
xvi. Find that the judicial inquiry did not establish its responsibility for the deaths;
xvii. Accordingly, dismiss the Application;
xviii. Find the proceedings initiated by the Applicant unfounded;
xix. Consequently, order the Applicant to pay the Respondent State reparation in the amount of Two Billion (2,000,000,000) CFA francs for all the damages suffered and costs incurred.

V. JURISDICTION

13. Article 3 of the Protocol provides that:

> 1. The jurisdiction of the Court shall extend to all disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant instrument ratified by the State concerned.
> 2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

14. Under Rule 49 (1) of the Rules "The Court shall ascertain its jurisdiction […] in accordance with the Charter, the Protocol and […] Rules.[3]

15. Based on the above-mentioned provisions, the Court must, in each Application, ascertain its jurisdiction and rule on objections thereto, if any.

16. The Court notes that the Respondent State raises an objection based on material jurisdiction, on which it will first rule (A) before considering other aspects of its jurisdiction, if necessary (B).

A. Objection based on material jurisdiction

17. The Respondent State asserts that the Court's material jurisdiction emanates from Article 3(1) of the Protocol, according to which it has jurisdiction to hear "all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned". It concedes that the Applicant is, therefore, entitled to bring a dispute concerning these instruments before the Court.

18. It contends, however, that the Applicant seized this Court as an appellate court, challenging the Amnesty Law and the Dismissal Order, with a view to obtaining a judicial decision compelling the government to set up a commission of inquiry.

19. The Respondent State points out, in this regard, that the Court lacks jurisdiction to establish facts contrary to the order of an investigating judge. Referencing *Ernest Mtingwi v. Republic of Malawi*, the Respondent State contends that the Court is not a court of appeal vis-a-vis domestic courts.

20. It further contends that, pursuant to Rule 26 of the Rules[4] and Article 3 of the Protocol, the Court lacks jurisdiction to repeal a domestic law.

[3] Rule 39(1) of the Rules of the Court of 2 June 2010.
[4] Rule 29 of the Rules of Court of 1 September 2020.

21. The Respondent State concludes that the Court lacks material jurisdiction to hear the Application.

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22. In reply, the Applicant submits that the objection be dismissed, arguing that it is not a question of the Court reviewing the legality of a domestic decision, but rather of finding a manifest violation of human rights contained in a judicial act. He asserts that the Court has jurisdiction to assess whether the order dismissing the case was made in accordance with the requirements of the Charter and any other international human rights instrument, which are an integral part of domestic law and are therefore binding on the Respondent State's courts.

23. He further contends that the Court has jurisdiction to ascertain if an amnesty law is consistent with the international conventions ratified by the Respondent State.

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24. The Court recalls that the Respondent State advances two arguments in support of its objection to material jurisdiction, namely, (1) the Court is not an appellate body in relation to its domestic courts and (2) it cannot annul the amnesty law.

i. Objection based on the Court not being an appellate court

25. The Court reiterates its established jurisprudence that it is not a court of appeal against decisions given by national courts.[5] However, "this does not preclude it from examining the relevant proceedings in the national courts in order to determine whether they are in accordance with the standards set out in the Charter or in any other human instrument ratified by the State concerned".[6]

[5] *Ernest Francis Mtingwi v. Republic of Malawi* (jurisdiction) (15 March 2013) 1 AfCLR 190, § 14.
[6] *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 130.

26. The Court considers that for it to assume material jurisdiction, it is sufficient that the rights of which a violation is alleged are protected by the Charter or by any other human rights instrument ratified by the State concerned,[7] which is the case here since the Applicant alleges violation of rights protected by Articles 1, 4, 5 and 7 of the Charter.

27. The Court would, therefore, not be sitting as an appellate court if it were to consider the Applicant's allegations.

ii. Objection based on the Court not being empowered to repeal a law

28. The Court recalls its jurisprudence that ordering the repeal of a law is a form of redress for human rights violations.[8] Notably, Article 27(1) of the Protocol provides that "if the Court finds that there has been violation of a human or peoples' right, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation".

29. The Court considers that, under this provision, it is empowered to order reparation measures only if a violation of human or people's rights has been found and if such measures are appropriate. It may, therefore, order the repeal of a law if it deems such a measure appropriate to remedy an established violation.

30. Consequently, the Court considers that it is acting within the remit of its jurisdiction. It, therefore, dismisses the Respondent State's objection and holds that it has material jurisdiction to hear the present Application.

[7] *Mussa and Mangaya v. Republic of Tanzania* (merits and reparations) (28 November 2019) 3 AfCLR 629, §18; *Franck David Omary and Others v. United Republic of Tanzania* (admissibility) (28 March 2014) 1 AfCLR 358, § 74; *Peter Chacha v. United Republic of Tanzania* (admissibility) (28 March 2014) 1 AfCLR 413, § 118.
[8] XYZ *v. Republic of Benin* (merits and reparation) (Judgement of 27 September 2020) 4 AfCLR 49, §28.

B. Other aspects of jurisdiction

31. The Court notes that no objection has been raised to its personal, temporal or territorial jurisdiction. However, in accordance with Rule 49(1) of the Rules, it must ascertain that all aspects of its jurisdiction are fulfilled.

32. As regards personal jurisdiction, the Court recalls that on 25 March 2020, as indicated in paragraph 2 above, the Respondent State deposited the instrument of withdrawal of its Declaration.

33. In this regard, the Court reiterates its position that the withdrawal of the Declaration has no retroactive effect and has no bearing on cases filed before the deposit of the instrument of withdrawal or on new cases filed before it came into effect on 26 March 2021. As the present Application was filed on 19 November 2019, that is, prior to the withdrawal of the Declaration, the said withdrawal has no bearing on it. Accordingly, the Court finds that it has personal jurisdiction to hear the Application.

34. As regards temporal jurisdiction, the Court notes that all the violations alleged by the Applicant occurred after the Respondent State became a party to the Charter and deposited the Declaration. Consequently, the Court finds that it has temporal jurisdiction in the present case.

35. As regards territorial jurisdiction, the Court notes that the violations alleged by the Applicant took place in the territory of the Respondent State. It, therefore, finds that its territorial jurisdiction is established.

36. Accordingly, the Court considers that it has jurisdiction to hear this Application.

VI. ADMISSIBILITY

37. The Court notes that the Respondent State raises objections to the admissibility of the Application that are not provided for either in the Charter or the Rules of Court. The Court will rule on those objections (A) before examining the admissibility requirements laid down in those instruments, if necessary (B).

A. Objections based on admissibility requirements not provided for by the Charter and the Rules

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38. The Court notes that the Respondent State raises preliminary objections to the admissibility of the Application, alleging (1) abuse of the right to institute legal proceedings, (2) lack of connection between the main Application and the supplementary Application and (3) lack of standing on the part of the Applicant.

39. The Court emphasizes that though these requirements are not specifically provided for either in the Charter or in the Rules, it is required to examine them.

i. On abuse of the right to bring legal proceedings

40. The Respondent State alleges that the "unknown" Applicant makes abusive use of "*actio popularis"* by using access to the Court to lodge several applications filed under Nos. "207/2019, 218/2019, 232/2019, 316/2019, 316/2019, 317/2019, 349/2019, 391/2019 and 447/2019". It asserts that the number and closeness of the filing dates of these applications sufficiently demonstrate that they are frivolous. The Respondent State further contends that the Applicant is using the Court as a political forum to criticize it. Accordingly, it submits that the Application be declared inadmissible for abuse of the right to bring proceedings.

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41. In response, the Applicant contends that neither the Charter, the Protocol nor the Rules of Court specifies the maximum number of applications an Applicant is entitled to submit to the Court. He further avers that submitting several applications does not, *per se*, constitute an abuse warranting dismissal on grounds of admissibility, insofar as the applications filed neither contain the same facts nor relate to the same subject-matter. He concludes that the objection should be dismissed.

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42. The Court notes that an application is said to be abusive, *inter alia*, if it is manifestly frivolous or if an applicant has filed it in bad faith contrary to general principles of law and to judicial practice. In that regard, it should be noted that the mere fact that an applicant files several applications against a particular Respondent State does not necessarily indicate a lack of good faith on the part of the applicant.[9]

43. The Court further notes that even if it is established that an application was filed for purposes of political propaganda, it does not necessarily render the application abusive. In any event, the Court further notes, an application can be deemed abusive only after comprehensive examination on the merits.[10]

44. Consequently, the Court finds that whether or not the Applicant is abusing the right to institute proceedings can only be determined at the stage of the merits.

ii. Objection based on the absence of a link between the main Application and the supplementary Application

45. The Respondent State avers that a supplementary application is admissible only if it is sufficiently connected to the main application. In this regard, it

[9] *XYZ v. Republic of Benin, supra*, § 44; *Sébastien Germain Marie Aïkoué Ajavon v. Republic of Benin* (merits and reparations) (Judgment of 4 December 2020) 4 AfCLR 133, § 64.
[10] XYZ *v. Republic of Benin, supra*, § 45.

argues that the main Applications Nos. 020/2019 and 021/2019 relate to the Penal Code and the vacation of Mr. Lionel Zinsou's conviction, whereas the present Application relates to the Amnesty Law and post-election protests. It submits that there is no link between these applications. In support of its argument, the Respondent State references the Judgment of the Court in Application No. 013/2017-*Sébastien Ajavon v. Republic of Benin.*

46. Accordingly, it concludes that the Application should be declared inadmissible for lack of connection to the main Application.

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47. The Applicant submits that the Court is not bound by the title of an application. It recalls that the Court has found that Consolidated Applications 021/2019 and 022/2019 and the present "Supplementary Application" were unrelated. Therefore, the Court, in the exercise of its discretion, decided to treat the latter separately and registered it as such. The Applicant thus prays the Court to dismiss the objection.

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48. The Court recalls that the Applicant filed the present Application, which he referred to as the "supplementary Application", to consolidated Applications 021/2019 and 022/2019. The Court found that the facts and subject matter of the supplementary Application and those of consolidated Applications 021/2019 and 022/2019 are unrelated.[11] It, therefore, decided to consider the supplementary Application as a separate Application that is autonomous vis-à-vis the earlier applications and registered it as such with Reference No. 009/2020.

49. In view of the foregoing, the Court holds that this objection is moot.

[11] Order for joinder of 4 July 2019, Applications 021/2019 and 022/2019 – *XYZ v. Republic of Benin*.

iii. Objection based on lack of interest to bring proceedings

50. The Respondent State alleges that the Applicant, under the cover of anonymity, filed a dozen unconnected Applications with the Court. It affirms that the Applications either sought to protect the rights of Mr. Lionel Zinsou, argue that the Constitutional Court of Benin is not independent or challenge the Penal Code.

51. It contends that in all of these applications, including the present one, the Applicant "does not demonstrate his personal interest to act. He does not present himself as a victim of human rights violations. It is the case, however, that as a matter of principle, legal action is predicated on, among other things, by capacity, standing and interest to act. The interest to act must be current, legitimate and personal".

52. Consequently, the Respondent State submits that the Application should be declared inadmissible.

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53. On his part, the Applicant recalls that Article 5(3) of the Protocol does not require individuals or NGOs to demonstrate a personal interest in an application in order to seize the Court. He argues that the only requirement is that the Respondent State, in addition to being a party to the Charter and the Protocol, should have deposited the Declaration, without having to demonstrate victim status or a personal and direct vested interest.

54. The Applicant therefore prays that this objection be dismissed.

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55. The Court notes that under Article 5(3) of the Protocol, "the Court may entitle Non-Governmental Organizations (NGOs) with observer status with the African Commission and individuals to bring cases directly before it".

56. The Court recalls its jurisprudence that individuals or NGOs need not demonstrate a personal interest in order to bring an application before the Court and that the only prerequisite is that the Respondent State, in addition to being a party to the Charter and Protocol, must have deposited the Declaration. This is in cognisance of the practical difficulties that victims of human rights violations may encounter in bringing their complaints before the Court, thus allowing any person to bring their complaints before the Court without having to demonstrate direct personal interest in the matter.[12]

57. In the instant case, the Court notes that the Applicant alleges that the Amnesty Law and the acts of repressions committed during the post-election protests violate the rights protected by the Charter.

58. The Court observes that these allegations fall within the scope of objective litigation insofar as they are of interest to all citizens, given that they directly or indirectly affect their individual or collective rights, the security and well-being of their society and of their country. As the Applicant himself is a citizen of the Respondent State, and as the challenges he brings before the Court have a potential impact on these rights protected by the Charter, it is clear that he has a direct interest in the matter.[13]

59. Consequently, the Court dismisses this objection.

B. Admissibility requirements provided for by the Charter and the Rules

60. Article 6(2) of the Protocol provides that "the Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter."

[12] *XYZ v. Republic of Benin, supra,* § 55.
[13] *XYZ v. Republic of Benin*, *supra*, § 57; *XYZ v. Republic of Benin,* (merits and reparations) (Judgment of 27 November 2020) 4 AfCLR 83, § 49.

61. Pursuant to Rule 50(1) of the Rules "the Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6(2) of the Protocol and these Rules".

62. Rule 50(2) of the Rules which essentially restates Article 56 of the Charter, reads as follows:

> Applications filed before the Court shall comply with all of the following conditions:
>
> a. Indicate their authors even if the latter request anonymity;
> b. Are compatible with the Constitutive Act of the African Union and with the Charter;
> c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;
> d. Are not based exclusively on news disseminated through the mass media;
> e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
> f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date the Court is seised with the matter, and
> g. Not concern matters which have been settled by the States concerned in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union or the provisions of the Charter.

63. The Respondent State raises an objection based on non-exhaustion of local remedies, on which the Court will rule before considering other admissibility requirements, if necessary.

i. Objection based on non-exhaustion of local remedies

64. The Respondent State submits that an individual may bring a dispute against his state before an international court only after he/she has seized

its judicial authorities in order to afford State authorities the opportunity to redress the consequences of the impugned decision or act.

65. It asserts that there are satisfactory local judicial remedies that the Applicant could have pursued before bringing the case before the Court. In that regard, it alleges that its legislation is unique insofar as it confers jurisdiction on the Constitutional Court in matters of human rights violations, as provided for in Article 114[14] of the Constitution. It submits that the Applicant could have brought the violations he alleges before the said court. The Respondent State also references the procedures set out in Articles 4[15] and 5[16] of Law No. 2012-15 establishing the Code of Criminal Procedure.

66. The Respondent State contends that the Applicant did not pursue any of the available local remedies and that, therefore, he filed his application with the Court prematurely. It prays the Court to declare the Application inadmissible.

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67. The Applicant counters that he is not related to the victims of the 1 and 2 May 2019 protests and, therefore, cannot bring an action before the civil court seeking reparations.

68. He further asserts that the Amnesty Law was declared constitutional by the Constitutional Court in its Decision DCC 2019-503 of 6 November 2019. He states that he has no other remedy in the domestic legal system against the Amnesty Law and that, at any rate, the Constitutional Court cannot reverse its own ruling.

[14] Article 114 of the Constitution provides that: “The Constitutional Court shall be the highest court of the State in constitutional matters. It shall be the judge of the constitutionality of laws and it shall guarantee the fundamental human rights and the public liberties. It shall regulate the functioning of institutions and the activity of public authorities.”
[15] Article 4 of the Code of Criminal Procedure provides that: “A civil action may be brought at the same time as a public action and before the same court”.
[16] Article 5 of the Code of Criminal Procedure provides that: “A civil action may also be brought separately from a public action.”

69. Consequently, he concludes that the objection should be dismissed.

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70. The Court recalls that pursuant to Rule 50(2)(e) of the Rules and Article 56(5) of the Charter, applications are filed after local remedies have been exhausted, if any, unless it is clear that the procedure thereof has been unduly prolonged.[17]

71. The Court emphasises that the local remedies to be exhausted are those of a judicial nature. They must be available, in the sense that they can be pursued without hindrance by the Applicant and effective in the sense that they are "capable of satisfying the Applicant or of remedying the situation complained of".[18]

72. With regard to the effectiveness of remedies, the Court recalls that it has consistently held that it is not enough for the Applicant to question the effectiveness of the State's local remedies. It is incumbent on him to take all necessary steps to exhaust or, at least, attempt to exhaust, all local remedies.[19]

73. Moreover, the Court underscores that the assessment of the exhaustion of local remedies is done on a case-by-case basis, taking into account the circumstances of each case.

74. The Court observes, in the present case, that the Applicant alleges a violation of human rights in connection with the Amnesty Law and the post-

[17] *Ghaby Kodeih and Nabih Kodeih v. Republic of Benin*, AfCHPR, Application No. 008/2020, Judgement of 23 June 2022 (jurisdiction and admissibility), § 49; *Houngue Éric Noudehouenou v. Republic of Benin*, AfCHPR, Application No. 032/2020, Judgement of 22 September 2022 (jurisdiction and admissibility), § 38.
[18] *Beneficiaries of late Norbert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo, Blaise Ilboudo and Mouvement Burkinabe des Droits de l'Homme et des Peuples v. Burkina Faso,* Judgment (merits) (5 December 2014), 1 AfCLR 219, § 68.
[19] *Peter Joseph Chacha v. United Republic of Tanzania* (admissibility) (28 March 2014), 1 AfCLR 398, § 143; *Diakité Couple v. Republic of Mali* (jurisdiction and admissibility) (28 September 2017) 2 AfCLR; *Komi Koutché v. Republic of Benin*, (jurisdiction and admissibility), (Judgement of 25 June 2021) 5 AfCLR 231, § 92.

election protests of April 2019. In the instant case, these two elements are indissociable from each other since the Amnesty Law relates to offences committed "during the process of the legislative elections of 28 April 2019". This is borne out by the simultaneous examination made by the Court in - *Sébastien Ajavon v. Benin* in relation to violations of the right to life[20] and the right to dignity,[21] on the one hand, and of the right to a fair trial[22] on the other.

75. The Court notes, as regards the action before the Constitutional Court, that it emerges from Article 114 of the Respondent State's Constitution that the Constitutional Court is the judge of the constitutionality of laws and guarantees fundamental human rights and public liberty. The Court notes that this is a general provision to which Article 122 of the Constitution of the Respondent State[23] gives effect.

76. With regard to the Applicant's argument that he did not need to seize the Constitutional Court since it had already declared the Amnesty Law to be compliant with the Constitution, the Court underscores that the review *a priori* carried out by the Constitutional Court before the law was promulgated, at the request of the President of the National Assembly,[24] is a review *in abstracto.*

77. The Court has consistently held that this review, which is undertaken prior to laws being promulgated, does not bar citizens from subsequently seizing the Constitutional Court to challenge the constitutionality of the laws in question,[25] including assessing compliance of the said laws with human rights, the rights and duties enshrined in the Charter, which have been fully

[20] *Sébastien Marie Aikoué Ajavon*, 4 December 2020, *supra*, §§ 161-174.
[21] *Ibid*, §§ 161 to 174.
[22] *Ibid*, §§ 227 to 239.
[23] Article 122 stipulates that: "*Any citizen may petition the Constitutional Court on the constitutionality of laws (…) directly".*
[24] Article 121 of the Constitution.
[25] Glory Cyriaque Houssou v. Republic of Benin, AfCHPR, Application No. 012/2018, Judgment of 13 November 2024 (merits and reparation), § 43.

adopted into the Constitution of the Respondent State.[26] Such a remedy is expressly provided for by Article 122 of the Respondent State's Constitution and Article 24 of the Organic Law on the Constitutional Court.[27]

78. The Court notes, moreover, that before the Constitutional Court of the Respondent State, the Applicant does not need to show any interest in bringing proceedings.[28] It follows that there was nothing to prevent the Applicant from bringing the case before the Constitutional Court for human rights violations on account of the Amnesty Law. From this point of view, an action before the Constitutional Court is an available remedy.

79. With regard to the effectiveness of the remedy, the Court reiterates its established jurisprudence, as set out in paragraph 72 of this judgment. It also recalls that it has consistently held that an appeal to the Respondent State's Constitutional Court is an effective and satisfactory remedy.[29]

80. In the light of the foregoing, the Court emphasises that the Applicant should have brought an action before the Constitutional Court. It follows that he did not exhaust local remedies.

81. Having found that the Applicant did not exhaust local remedies, the Court decides that it is not necessary to examine the remedies supposedly provided for in Articles 4 and 5 of the Criminal Procedure Code.

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[26] Article 7 of the Respondent State's Constitution provides: "The rights and duties proclaimed and guaranteed by the African Charter on Human and Peoples' Rights adopted in 1981 by the Organisation of African Unity and ratified by Benin on 20 January 1986 are an integral part of the [...] Constitution and of Beninese law".

[27] The law in question is Law 91-009 of 4 March 1991 on the Constitutional Court, as amended by the Law of 31 May 2001. Article 24 of this Law states that: "*Any citizen may, by sending a letter containing his or her full name and exact address, appeal directly to the Constitutional Court on the constitutionality of laws. They may also, in a matter that concerns them, raise an objection of unconstitutionality before a court. The latter, following the procedure for raising an objection of unconstitutionality, must refer the matter to the Constitutional Court immediately and, at the latest, within eight days, and suspend proceedings until the Court's decision.*

[28] See report of the Constitutional Court of Benin, 2000, p. 62.

[29] *Laurent Métongnon and Others v. Republic of Benin*, AfCHPR, Application No. 031/2018, Judgement of 24 March 2022, § 63.

82. The Court considers, therefore, that the Application does not satisfy the requirement of Rule 50(2)(e) of the Rules.

ii. Other admissibility requirements

83. Having found that the Application does not meet the requirement of Rule 50(2)(e) of the Rules, and in view of the cumulative nature of the admissibility requirements,[30] the Court does not have to rule on the other admissibility requirements under Article 56(1), (2), (3), (4), (6) and (7) of the Charter as restated in Rule 50(2)(a), (b), (c), (d), (f), and (g) of the Rules.[31]

84. In the light of the foregoing, the Court declares the Application inadmissible.

VII. COSTS

85. The Parties pray that the costs of the proceedings be borne by the other.

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86. Under Article 32(2) of the Rules "unless otherwise decided by the Court, each party shall bear its own costs."

87. The Court finds that nothing in the circumstances of this case warrants a departure from this principle.

88. Accordingly, the Court decides that each Party shall bear its own costs.

[30] *Mariam Kouma and Ousmane Diabaté v. Republic of Mali* (jurisdiction and admissibility) (21 March 2018) 2 AfCLR 237, § 63; *Rutabingwa Chrysanthe v. Republic of Rwanda* (jurisdiction and admissibility) (11 May 2018) 2 AfCLR 361, § 48; *Collectif des anciens travailleurs ALS v. Republic of Mali*, AfCHPR (jurisdiction and admissibility) (Judgment of 28 March 2019) 3 AfCLR 73, § 39.
[31] *Ibid.*

VIII. OPERATIVE PART

89. For these reasons,

THE COURT

Unanimously

On jurisdiction:

i. *Declares* that it has jurisdiction.

On admissibility:

ii. *Upholds* the objection based on non-exhaustion of local remedies;
iii. *Declares* the Application inadmissible.

On costs:

iv. *Decides* that each party shall bear its own costs.

Signed:

Modibo SACKO, President ;

Chafika BENSAOULA, Vice-President;

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Blaise TCHIKAYA, Judge

Stella I. ANUKAM, Judge;

Imani D. ABOUD, Judge;

Dumisa B. NTSEBEZA, Judge;

Dennis D. ADJEI, Judge;

Duncan GASWAGA, Judge,

and Robert ENO, Registrar.

Done at Arusha, this Twenty-Sixth Day of the month of June in the year two thousand and twenty-five, in French and English, the French version being authoritative.