


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

SUMMARY

APPLICATION No. 044 / 2019

SUY BI GOHORE EMILE AND OTHERS

V.

REPUBLIC OF CÔTE D'IVOIRE

I. THE PARTIES

1. Messrs SUY Bi Gohore Emile, KAKOU Guikahué Maurice, KOUASSI Kouamé Patrice, KOUADJO François, YAO N'guessan Justin Innocent, GNONKOTE Gnessoa Désiré, DJEDJE Mady Alphonse, SORO Kigbafori Guillaume and TRAZERE Olibe Celestine (hereinafter referred to as "the Applicants") are nationals of the Republic of Côte d'Ivoire. They challenge the independence and impartiality of the Electoral Commission of Côte d'Ivoire.

2. The Respondent State is the Republic of Côte d'Ivoire (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 "the Charter") on 31 March 1992 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 25 January 2004. On 23 July 2013,

the Respondent State deposited the Declaration prescribed under Article 34(6) of the Protocol through which it accepted the jurisdiction of the Court to receive cases from individuals and non-governmental organisations (hereinafter referred to as the “Article 34(6) Declaration”). Meanwhile, on 29 April 2020, the Respondent State deposited, with the African Union Commission, an instrument withdrawing its Article 34(6) Declaration.

II. SUBJECT OF THE APPLICATION

3. It is alleged in the Application that between 21 January 2019 and 26 June 2019, the Respondent State organised a political dialogue process to reform the Independent Electoral Commission. Thereafter, a new law on the recomposition of the Independent Electoral Commission (herein after referred to as “IEC”) was passed by the National Assembly and Senate on 30 July 2019 and 2 August 2019, respectively. It was then promulgated by the President of the Respondent State as Law N°2019-708 of 5 August 2019.
4. The Applicants submit that on 2 August 2019 one member of the National Assembly averring to represent sixty-five (65) other members of the National Assembly petitioned the Constitutional Council on the non-conformity of Articles 5, 16 and 17 of the said law with Articles 4, 53 and 123 of the Respondent State’s Constitution.
5. According to the Applicants in this case, the Constitutional Council declared on 5 August 2019 the petition inadmissible on the ground that it made reference to a draft version of the impugned law while the Constitutional Council does not decide on the constitutionality of draft laws.
6. From the record before the Court it emerges that on 6 August 2019 the same Applicants filed another petition to the Constitutional Council that referred to the actual law adopted by parliament instead of the draft law.
7. The Applicants in the instant case submit that on 13 August 2019 the Constitutional Council declared the Applicants’ petition again inadmissible for the

reason that the law had already been promulgated and that it does not have the power to assess the constitutionality of a law that has already been promulgated by the President.

8. The record also shows that on 4 March 2020 the Respondent State adopted Order N° 2020/306 which modified Law N° 2019-708 of 5 August 2019 on the recomposition of the Independent Electoral Commission by giving opposition parties or political groupings the possibility of proposing one additional personality to the electoral body, both at the level of the Central and the Local electoral commissions.
9. Furthermore, the present Application relies on the judgment delivered by this Court on 18 November 2016 in *Action pour la Protection des Droits de l'Homme (APDH) v Côte d'Ivoire* (merits) concerning the composition of the Electoral Commission of the Respondent State and to the Court's judgment of 28 September 2017 to interpret said judgment.
10. The Court found in its judgment *APDH v Côte d'Ivoire* (merits) that the Respondent State had violated its obligation to establish an independent and impartial electoral body, and consequently, also violated its obligation to protect the right to participate freely in the government of the country. Moreover, the Court found that the Respondent State had violated the obligation to protect the right to equal protection of the law. The Court therefore ordered the Respondent State to amend Law no. 2014-335 of 18 June 2014 on the Independent Electoral Commission to make it compliant with the relevant human rights instruments to which it is a Party.
11. In its judgment in *APDH v Côte d'Ivoire* (interpretation) the Court declared the request for an interpretation of the aforesaid judgment inadmissible as it did not relate to any of the operative provisions of the Judgment.

III. ALLEGED VIOLATIONS

12. The Applicants allege that the Respondent State has violated:

- i. Its obligation to create an independent and impartial electoral body as provided for by Article 17 of the African Charter on Democracy, Elections and Governance (hereinafter referred to as “ACDEG”) and Article 3 of the ECOWAS Protocol on Democracy and Good Governance supplementary to the Protocol relating to the Mechanism For Conflict Prevention, Management, Resolution, Peacekeeping and Security;
- ii. Its obligation to protect citizens’ right to participate freely in the government of their country as provided under Article 13(1) and (2) of the Charter;
- iii. Its obligation to protect the right to equal protection of the law, as provided by Article 10(3) of the ACDEG, Article 3(2) of the Charter and Article 26 of the International Covenant on Civil and Political Rights; and
- iv. Its commitment to comply with the judgment of the Court in a case to which it was a party within the time stipulated by the Court and to guarantee its execution in accordance with Article 30 of the Protocol.

IV. PRAYERS OF THE PARTIES

13. The Applicants pray the Court to:

- i. find a violation of the human rights instruments referred to in paragraph 12;
- ii. order the Respondent State to amend, before any election, Law No. 2019-708 of 5 August 2019 on the recomposition of the IEC, to make it compliant with the human rights instruments mentioned in paragraph 12; and
- iii. impose a deadline on the Respondent State to implement the above order and submit to the Court a report on its implementation.

14. The Respondent State prays the Court to:

- i. declare that it lacks jurisdiction;
- ii. declare the Application inadmissible; and
- iii. declare that the Application is unfounded and, accordingly, dismiss it.