



**GLORY C. HOSSOU AND LANDRY A. ADELAKOUN**

**v.**  
**REPUBLIC OF BENIN**

**APPLICATION NO. 016 /2020**

**RULING ON JURISDICTION**

**A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS**

Date of Press Release: 2 December 2021.

**Dar es Salaam, 2 December 2021:** The African Court on Human and Peoples' Rights (the Court) delivered its Ruling in the matter of *Glory C. Hossou and Landry A. Adhlakoun v. Republic of Benin*.

Glory C. Hossou and Landry A. Adhlakoun (the Applicants) alleged that the withdrawal by the Republic of Benin (the Respondent State) of its Declaration accepting the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations was a violation of their rights. The Applicants further alleged that the Respondent State's action contravened the provisions of the African Charter on Human and Peoples' Rights (the Charter) and other international human rights instruments. According to the Applicants, the Respondent State's conduct constituted a violation of human rights insofar as it deprived citizens of the Respondent State of the right to directly access the regional judicial system to litigate and to seek reparations for human rights violations. The Applicants submitted that this constituted a regression of rights.

The Court, by a majority of ten (10) votes to one (1), decided to uphold the objection to its material jurisdiction raised by the Respondent State. The Respondent State argued that the Court lacked material jurisdiction because a State is a sovereign entity, in accordance with the basic principles of international law, particularly in the matter of accepting the jurisdiction of an international court. It further argued that under international law sovereignty is manifested in the principle of consent. According to the Respondent State, the consent of a State is "*a sine qua non of the jurisdiction of any international court, regardless of the moment and the manner in which such consent is expressed*". The Respondent State also pointed out that, from the texts governing the Court as well as from its jurisprudence, States are free to decide to accept its jurisdiction, which makes the Declaration optional. According to the Respondent State, it followed that States that submit to the Court's jurisdiction,



by virtue of having deposited the Declaration, cannot be compelled to remain under the said jurisdiction without infringing on their sovereignty. The Respondent State also asserted that while the Court, through its jurisprudence, had recognised its jurisdiction regarding the legal effects of a Respondent State's withdrawal in the instant case it could not entertain a case that sought to revoke the right of the Respondent State to withdraw its Declaration. The Respondent State concluded by submitting that the instant application fell outside the jurisdiction of the Court.

The Court considered whether the withdrawal of the Declaration constitutes a human rights violation. With regard to the application of the Vienna Convention on the Law of Treaties of 1969 (Vienna Convention) to the case at hand, the Court noted that if a Declaration deposited under Article 34(6) of the Protocol to the Charter on the Establishment of an African Court on Human and Peoples Rights (the Protocol) emanates from a protocol governed by the law of treaties, the Declaration itself is a unilateral act not covered by the law of treaties. The Court, therefore, concluded that the Vienna Convention does not apply to a Declaration deposited under Article 34(6) of the Protocol.

In order to determine whether the withdrawal of the Declaration by the Respondent State constituted a violation of human rights, the Court held that it would be guided by the rules governing declarations of acceptance of jurisdiction, the principle of state sovereignty in international law and by the rules of the law of treaties contained in the Vienna Convention. The Court held that a unilateral act does not fall within the scope of the Vienna Convention. Accordingly, the Court found that the Vienna Convention does not apply to a Declaration made under Article 34(6) of the Protocol.

With regard to the rules governing the jurisdiction of international courts, the Court held that the rules relating to similar declarations are optional, adding that the declarations made in recognition of jurisdiction are the same for the International Court of Justice, the European Court of Human Rights, and the Inter-American Court of Human Rights. The Court further held that the nature of the Declaration under Article 34(6) of the Protocol is similar to that mentioned herein, and that it is the reason Article 34(6) emanates from the Protocol. It follows that depositing the Declaration is a voluntary act, since it a unilateral act that can be separated and independently withdrawn by the Respondent State.

The Court also held that the optional nature of the Declaration and its unilateral nature derive from the principle of state sovereignty in international law and that with respect to unilateral acts, State sovereignty means that States are free to make commitments and to retain the discretion to withdraw their obligation in accordance with the relevant rules of each treaty. The Court, therefore, held that States have the right to establish mechanisms to complement their domestic human rights



implementing systems. Accordingly, the Court held that this Application fell outside its purview.

The Court concluded that the Respondent State had the right to withdraw its Declaration deposited in accordance with Article 34(6) of the Protocol. Consequently, the Court upheld the Respondent State's objection alleging its lack of material jurisdiction and declared that it lacked jurisdiction to hear this case.

On costs, the Court ordered each Party to bear its own costs.

Justice Chafika BENSAOULA issued a Declaration.

### **Further Information**

Further information including the full text of the decision of the African Court can be found on the website at: <https://www.african-court.org/cpmt/details-case/0162020>

For any further queries, please contact the Registry by email: [registrar@african-court.org](mailto:registrar@african-court.org)

*The African Court on Human and Peoples' Rights is a continental court established by African countries to ensure the protection of human and peoples' rights in Africa. The African Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website: <https://www.african-court.org>.*