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الاتحاد الأفريقي



UNIÃO AFRICANA

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

P.O Box 6274 Arusha, Tanzania - Telephone: +255 27 205 0111 Fax. +255 27 205 0112

IN THE MATTER OF

YOUSSEF ABABOU

v.

KINGDOM OF MOROCCO

APPLICATION No. 007/2011

DECISION

The Court composed of: Gérard NIYUNGEKO, President; Sophia A.B. AKUFFO, Vice-president; Jean MUTSINZI, Bernard M. NGOEPE, Modibo T. GUINDO, Fatsah OUGUERGOUZ, Joseph N. MULENGA, Augustino S.L. RAMADHANI, Duncan TAMBALA, Elsie N. THOMPSON and Sylvain ORE – Judges; and Robert ENO-Acting Registrar,

In the matter of:

YOUSSEF ABABOU

v.

KINGDOM OF MOROCCO

Having regard to the above stated application and having deliberated thereon, the Court decides as follows:

The Facts

1. In his application, the Applicant alleges as follows:
 - the Kingdom of Morocco has refused, and continues to refuse, to issue him his documents, which include, a national identity card and a passport;
 - it has been many years since he started requesting his rights to these civil status documents from the Consulate General of the Kingdom of Morocco and the Ambassador of the Kingdom of Morocco in Algeria, “but the latter have systematically refused to respect [his] rights to these documents”;

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- he has all the necessary proof to show that he has taken all the required steps without success.
- 2. The Applicant prays the Court to “enroll this matter ... for justice to be rendered”.

Procedure

3. The application dated 13th May, 2011, was received at the Registry of the Court on 18th May, 2011, and was registered on the same date.
4. On 19th May, 2011, the Registrar wrote to the Applicant acknowledging receipt of the application and observing that the application is not signed, does not specify the (i) alleged violation, (ii) evidence of exhaustion of local remedies or of the inordinate delay of such local remedies, and; (iii) orders sought from the Court.
5. Pursuant to Rule 35 (1) of the Rules of Court, the Registrar transmitted the application to the Judges on 19th May, 2011.
6. On 15th June, 2011, the Registrar wrote to the Applicant, reminding the latter to respond to the letter of 19th May, 2011, within thirty (30) days.
7. Via electronic mail of 20th June, 2011, the Applicant sent a signed copy of the application to the Registry.
8. By letter of 16th June, 2011, the Registrar requested the Office of the Legal Counsel of the African Union Commission, to indicate whether the Kingdom of Morocco is a member of the African

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Union, and if so, whether it has ratified the Protocol to the African Charter on Human and Peoples' Rights Establishing the African Court on Human and Peoples' Rights, ("the Protocol") as well as made the declaration under Article 34 (6) thereof.

9. By letter of 19th July, 2011, the Legal Counsel of the African Union Commission informed the Registrar that the Kingdom of Morocco is not a member of the African Union, and has neither signed nor ratified the Protocol establishing the Court.
10. Having regard to Article 3 of the Protocol, the Court deliberated on its competence to hear the application.

Applicable Law

11. Article 3 (1) of the Protocol provides that "The jurisdiction of the Court shall extend to 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".
12. As this is an application brought against a State which is not a member of the African Union, which has neither signed nor ratified the Protocol establishing the Court, the Court concludes that manifestly, it does not have the jurisdiction to hear the application.
13. For these reasons,

THE COURT, unanimously:

- 1) Finds that, in terms of Article 3 of the Protocol, it has no jurisdiction to hear the case instituted by Mr. Youssef Ababou against the Kingdom of Morocco.

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2) Strikes out this application for want of jurisdiction.

Done at Arusha, this second day of September in the year Two Thousand and Eleven, in French and English, the French text being authoritative.

Signed:

Gerard NIYUNGEKO, President



Robert ENO, Acting Registrar

