

001/2012
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AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

IN THE MATTER OF:

DELTA INTERNATIONAL INVESTMENTS SA, MR. AGL DE
LANGE AND MRS. M. DE LANGE

V.

THE REPUBLIC OF SOUTH AFRICA

Appeal No. 001/2012

RULING

The Court composed of: Sophia A.B. AKUFFO, President ;
Fatsah OUGUERGOUZ, Vice-President; Gérard NIYUNGEKO,
Augustino S. L. RAMADHANI , Duncan TAMBALA , Elsie N.
THOMPSON, Sylvain ORÉ, El Hadji GUISSSE and Ben
KIOKO, Judges ; and Robert ENO – Registrar;

In the Matter of:

DELTA INTERNATIONAL INVESTMENTS SA, MR. AGL DE
LANGE AND MRS. DE LANGE

V.

THE REPUBLIC OF SOUTH AFRICA

After Deliberations,
renders the following Ruling:

1. By an application dated 4 February 2012, received at the Registry of the Court on 8 February 2012, Delta International Investments SA, Mr. AGL De Lange and Mrs. De Lange (hereinafter referred to as "the Applicants"), seized the Court with a petition against the Republic of South Africa (hereinafter referred to as "the Respondent"), for alleged torture and violation of their rights to dignity, property,

information, privacy and discrimination, contrary to the South African Constitution and the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter").

2. In accordance with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol) and Rule 8(2) of the Rules of Court (the Rules), Justice Bernard M. Ngoepe, member of the Court of South African nationality, recused himself.
3. The application was considered by the Court on 30 March 2012 at its 24th Ordinary Session. The Court decided that "pursuant to Articles 5(3) and 34(6) of the Protocol, it manifestly lacks jurisdiction to receive the application submitted by Delta International Investments SA, Mr. AGL De Lange and Mrs. M. De Lange, against the Republic of South Africa, and the Application is accordingly struck out ..."
4. By an 'Appeal' dated 16 August 2012, and received at the Registry on 12 September 2012, the Applicants purported to appeal against the decision of the Court, asserting, *inter alia*, that the Court had jurisdiction by virtue of relevant provisions of the South African Constitution, the United Nations Charter, the Charter and 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").

5. In addition, the Applicants argue that the Charter cannot be subservient to what they called "Administrative Protocol adopted twelve years later on 9 June 1998".
6. The Court is of the view that the Applicants are not entitled to appeal against the earlier decision of the Court since the earlier decision is "final and not subject to appeal" in the light of the provisions of Article 28 (2) of the Protocol.
7. Even if the Court were to consider the Applicants' letter of 16 August, 2012 as an application for review within the meaning of Article 28(3) of the Protocol, the Court is of the view that the application does not provide any new evidence to warrant a review.
8. For these reasons:

THE COURT,
Unanimously

Rules that, pursuant to Article 28(2) of the Protocol, the 'Appeal' submitted by Delta International Investments SA, Mr. AGL De Lange and Mrs. De Lange is not admissible. Accordingly, the matter is struck out.

Done in Arusha, Tanzania, this Fifteenth day of March of the year Two Thousand and Thirteen, in English and French, the English text being authoritative.

Signed:



Justice Sophia A.B. AKUFFO, President



Robert ENO, Registrar.

