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15/03/2013
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AFRICAN UNION

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UNION AFRICAINE

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

IN THE MATTER OF

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

V.

GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

APPLICATION No. 004/2011

ORDER

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

In the matter of:

African Commission on Human and Peoples' Rights

v.

Great Socialist People's Libyan Arab Jamahiriya

After deliberations;

makes the following Order:

1. By an Application dated 3 March 2011, received at the Registry of the Court on 16 March 2011, the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Applicant"), brought an action against the Great Socialist People's Libyan Arab Jamahiriya (hereinafter referred to as "the Respondent"), alleging "serious and massive violation of human rights" guaranteed under the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter");
2. By letter of 22 March 2011, the Respondent was notified of the application in accordance with Rule 35(2)(a) of the Rules of Court, and the Respondent was invited to indicate the names and addresses of its

representatives within thirty (30) days, and to respond to the Application within sixty (60) days, in accordance with Rule 37 of the Rules of Court;

3. By letter of 22 March 2011, and in accordance with Rule 35(3) of the Rules of Court, the Registry of the Court informed the Chairperson of the African Union Commission and, through him, the Executive Council and all States Parties to the Protocol, of the submission of the said application;
4. By letter dated 13 June 2011, the Pan African Lawyers' Union ('PALU') applied to the Court for leave to participate as *amicus curiae* in the application, and at its 24th Ordinary Session, the Court granted PALU leave as prayed;
5. On 23 March 2011, the Court notified the parties that, in accordance with article 27(2) of the Protocol and Rule 51(1) of its Rules, it had the power, on its own and without having to hear the parties, to order provisional measures in view of the urgency and gravity of the situation;
6. On 25 March 2011, the Court issued an order of provisional measures, receipt of which the Respondent acknowledged on 2 April 2011;
7. On 13 April 2011, the Court received the Respondent's reaction to the Order of provisional measures;

8. On 18 May, 2011, the Registry received a letter from the Embassy of Libya in Addis Ababa in Ethiopia, requesting for three weeks' extension of time for the Respondent to submit its response to the application;
9. On 8 June, 2011, during its 21st Ordinary Session, and before the Court had considered the Respondent's request for extension of time, the Registry received both the Respondent's notification of the name and address of its representative and its response to the application dated 7 June, 2011;
10. On 16 June 2011, the Court decided to extend the time for the Respondent to submit its response to the application to 8 June, 2011, the date on which the Court received the Respondent's response communicating the names and addresses of its representatives, as well as its response to the application;
11. By letter of 18 June, 2011, the Registry transmitted to the Applicant, the Respondent's response to the application, and indicated that the Applicant should submit its reply within thirty (30) days of the date of receipt of the letter.
12. On 28 June, 2011, the Registry received a letter from the Applicant requesting for extension of time for its reply, up to 30 September, 2011;
13. On 2 September, 2011, the Court decided to extend the time for the Applicant to file its reply to 30 September, 2011;

14. By letter dated 28 September, 2011, the Applicant requested the Court for a second extension of time for its reply, for a further period of one year, 'to allow the situation in Libya to evolve sufficiently to permit the gathering of the required evidence';
15. During its 23rd Ordinary Session, the Court decided to serve the Applicant's request for extension of time on the Respondent;
16. By letter dated 22 December, 2011, the Registry served on the Respondent, the Applicant's request for extension of time;
17. During its 24th Ordinary Session held from 19 to 30 March, 2012, the Court noted that the Respondent had not reacted to the Applicant's request, and decided to extend the time for the Applicant to file its reply to 31 August, 2012;
18. By letter dated 2 May, 2012 and received at the Registry on 15 June 2012, the Representative of the Respondent requested the Court to 'drop the case' as the Respondent government is no longer in existent;
19. By separate letters of 27 June, 2012, the Applicant, as well as PALU, were served with copies of the Respondent's letter of 2 May;
20. By letter dated 28 August, 2012, received at the Registry on 30 August, 2012, the Applicant requested that the matter be 'stood down until the circumstances on the ground in Libya permit the gathering of the necessary evidences and testimonies';

21. At its 25th Ordinary Session, the Court noted that the deadline given to the Applicant to submit its reply had not expired, and decided to wait for the expiration of the deadline before taking a decision;
22. At its 26th Ordinary Session held in September, 2012, the Court considered the request by the Applicant to adjourn the matter indefinitely, and decided that the request for adjournment should be served on the Respondent as well as on PALU, and they should be given thirty (30) days within which to respond;
23. By separate letters of 24 September, 2012, the Respondent, as well as PALU, were served with copies of the Applicant's request, and were given 30 days within which to respond. They were due to respond by 24 October, 2012;
24. The Court further decided that it would take a decision on the way forward regarding the Application during its 28th Ordinary Session in March, 2013, if the Applicant has still not provided any information;
25. At its 27th Ordinary Session, the Court noted that the Applicant had not made any additional submission, and neither had the Respondent nor PALU.
26. As at the 15th of March, 2013, the Applicant had not reacted to the Respondent's request and neither the Respondent nor PALU had Responded to the Registry's letter;

Now Therefore:

- a. The Court finds that the Applicant has failed to file its Reply within the extended time, that is, 31 August, 2012, and instead has tried to preempt that order by requesting an indefinite extension of time by its letter of 28 August, 2012;
- b. The Court, consequently, finds that the Applicant has failed to pursue the Application which was filed on 3 March, 2011.
- c. The Court also finds that the Applicant has failed to respond to the Respondent's request to have the case dropped, which request has been served on the Applicant.

For these reasons,

THE COURT, acting by its inherent power, unanimously ORDERS that the Application herein be and the same is HEREBY struck out.

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

Signed:
Sophia A. B. AKUFFO, President**Robert ENO, Registrar** 