

JUDGMENT SUMMARY

Conaïde Togla Latondji Akouedenoudje v. Republic of Benin

Application No. 024/2020

JUDGMENT ON THE MERITS AND REPARATIONS

13 June 2023

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

In **Arusha, on 13 June 2023**, the African Court on Human and Peoples' Rights (the Court) delivered a judgment in the matter of *Conaïde Togla Latondji Akouedenoudje v. Republic of Benin*.

On 4 August 2020, Mr Conaïde Togla Latondji Akouedenoudje (the Applicant) filed an Application against the Republic of Benin (the Respondent State).

The Applicant challenged Interministerial order No. 023/MJL/DC/SGM/DAPCG/SA/023SGG19 of 22 July 2019 (order of 22 July 2019) prohibiting the issuance of official documents to persons wanted by the courts of the Respondent State.

According to the Applicant, the said order violates the following rights: the right to the presumption of innocence, protected under Article 7(1) (b) of the African Charter on Human and Peoples' Rights (the Charter) and the right to nationality, protected by Article 15 of the Universal Declaration of Human Rights (UDHR).

The Applicant prayed the Court to find that the Respondent State violated human rights by virtue of the Order of 22 July 2019 and to order the Respondent to bring the Order into compliance with international human rights requirements. The Respondent State prayed the Court to declare that it had no jurisdiction, that the application was inadmissible and that the Order did not violate the right to the presumption of innocence and the right to nationality.

The Respondent State raised an objection to the material jurisdiction of the Court. The Court dismissed the objection and found that it has material jurisdiction. The Court also examined its personal, temporal and territorial jurisdiction. The Court found that its jurisdiction to hear the Application was established.

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The Respondent State raised an objection based on non-exhaustion of local remedies. The Court dismissed the said objection and found the Applicant exhausted local remedies. The Court also examined the other admissibility requirements and found them to be met. It found that the Application was admissible.

On the merits, the Applicant asserted that by deciding not to issue the official documents to persons sought by the courts, in accordance with the Order of 22 July 2019, even though the said persons are not the subject of a final conviction, the Respondent State violated the principle of the presumption of innocence. According to the Respondent State, the prohibition on issuing authority documents is not a conviction but is intended to prevent persons wanted by the courts from absconding. The Respondent State further averred that the order in question contributes to uphold the presumption of innocence to the extent that it allows defendants to appear in court demonstrate either their innocence or their guilt.

The Court noted that the ministers who issued the Order of 22 July 2019 interfered in powers that fall within the remit of the judiciary, since the measures of restraint to which suspects or accused persons may be subject are taken are decided by, or under the effective control of, the judicial authority. The Court noted that the Respondent State did not produce evidence of any wanted notice or warrant issued by the judicial authorities, let alone a court decision prohibiting the issuance of the documents in question to the wanted persons. The Court further noted that the list of wanted persons, which is openly accessible on the Ministry of Justice website, creates a perception of guilt. In the instant case, the Court held that the Respondent State violated Article 7(1)(b) of the Charter.

The Applicant argued that the right to nationality should be assessed in terms of the actual enjoyment of all the benefits of nationality, including the possibility of benefiting from all civil or administrative documents. The Respondent State argued that the contested order does not relate to nationality and does not limit proof of nationality.

The Court found that the measure prohibiting the issuance of certificates or ordering the cancellation thereof, as enacted by the Order of 22 July 2019 is likely to negate the legal personality of wanted persons and lead to situations similar to statelessness, which is disproportionate to the aim pursued. The Court found that the Respondent State violated the right to nationality protected by Article 5 of the Charter and Article 15 of the UDHR.

The Court ordered the Respondent State to take all measures to revoke the inter-ministerial 22 July 2019. The Court decided that each party should bear its own costs.

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Judge Blaise TCHIKAYA delivered a dissenting opinion which is annexed to the judgment in accordance with Article 28(7) of the Protocol and Rule 70(1) of the Rules of Court.

Additional information

Further information on this case, including the full text of the African Court's judgment, is available at <https://www.african-court.org/cpmt/details-case/0242020>

For any other questions, please contact the Registry by e-mail at 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 Court has jurisdiction over 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. For more information, please visit our website www.african-court.org.