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| AFRICAN UNION   |  | UNION AFRICAINE |
| الاتحاد الأفريقي  |   | UNIÃO AFRICANA  |
| <b>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</b><br><b>COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</b> |   |                 |

**THE MATTER OF**  
**DEMOCRATIC REPUBLIC OF THE CONGO**

**V.**

**REPUBLIC OF RWANDA**

**APPLICATION NO. 007/2023**

**RULING**  
**(REQUEST FOR EXPEDITED PROCEDURE)**

**7 MARCH 2024**



**The Court composed of:** Imani D. ABOUD, President; Modibo SACKO, Vice President; Ben KIOKO, Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R CHIZUMILA, Chafika BENSAOULA, Stella ANUKAM, Dumisa B. NTSEBEZA, Dennis D. ADJEI - Judges; and Robert ENO, Registrar.

*In the Matter of*

DEMOCRATIC REPUBLIC OF THE CONGO

Represented by:

- i. Barrister Ivon Mingashang, Advocate of the Kinshasa-Gombe Bar;
- ii. Marcel Wetsh'Okonda, Professor of Law at the Faculty of Law, University of Kinshasa, Advocate of the Kinshasa-Gombe Bar;
- iii. Mr Mulumba Yshitoko Martin, Professor of Law at the Faculty of Law, University of Kinshasa, Advocate of the Kinshasa-Matete Bar;
- iv. Barrister Trésor Mulindo Makunya, Professor of Law at the Faculty of Law, University of Kinshasa, Advocate of the Goma Bar;
- v. Dieudonné Wedi Djamba, Advocate of the Lumumbashi bar;
- vi. Sylvain Lumu Mbaya, Professor of Law at the Faculty of Law, University of Kinshasa, Judge at the Constitutional Court of the Democratic Republic of Congo;
- vii. Mr Balingene Kahombo, Professor at the Faculty of Law in Goma ;
- viii. Barrister Honoré Mitshabo Tshitenge, Deputy Director of the Office of the Minister of State, Minister of Justice and Keeper of the Seals, Advocate of the Kinshasa-Gombe Bar;
- ix. Barrister Augustin Kabaka Kwetukwenda, Legal Adviser in the office of the Minister of State, Minister of Justice and Keeper of the Seals, Advocate of the Kinshasa-Matete Bar;
- x. Barrister Jean Paul Mwanza Kambongo, Assistant at the Faculty of Law, University of Kinshasa, Advocate of the Kinshasa-Gombe Bar;

- xi. Barrister Merline Tuasaulua Munza, Assistant at Bel Campus University, Advocate of the Kinshasa-Matete Bar;
- xii. Mr Olivier Kilumbu Kifukamwam, Assistant at the Faculty of Law, University of Kinshasa;
- xiii. Mr Glodie Kinsemi Malambu, Assistant at the Faculty of Law at the University of Kinshasa, Advocate of the Central Kongo Bar;
- xiv. Barrister Grâce Ngoy Ilunga, Assistant at the Human Sciences Research Centre, Advocate of the Kinshasa-Matete Bar;
- xv. Barrister Dany Bushabu Bushabu, Assistant at the Human Sciences Research Centre, Advocate of the Kinshasa-Matete Bar;
- xvi. Ms Berenice Kabulo Mukanda, Assistant at the Human Sciences Research Centre, Advocate of the Kinshasa-Matete Bar;
- xvii. Mr Bruno Kalala Mbuyi, Assistant at the Faculty of Law, University of Kinshasa; and
- xviii. Ms Rabie Dimbu Mavua, Assistant at the Human Sciences Research Centre;

Versus

REPUBLIC OF RWANDA

Unrepresented

Having regard to Article 33 of 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");

Having regard to Rule 90 of the Rules of Court (hereinafter referred to as "the Rules");

*After deliberation,*

*Renders this Ruling:*

## **I. SUBJECT OF THE MAIN APPLICATION**

1. On 21 August 2023, the Democratic Republic of the Congo (hereinafter “the Applicant State”) filed an Application with the Court against the Republic of Rwanda (hereinafter “the Respondent State”).
2. In support of its Application, the Applicant State avers that as a result of a conflict between its army and a coalition comprising the Respondent State’s armed forces and a rebel movement called M23, the Respondent State must be found responsible for the violation of the following rights protected by the African Charter on Human and Peoples’ Rights (the Charter): The right to an effective remedy and to reparation, the right to life and physical integrity, the right to human dignity, the prohibition of slavery, human trafficking, torture, cruel or degrading treatment or punishment, the right to liberty and personal security, the right to education, the right to property, the right to housing, the right to the highest attainable standard of physical and mental health, the right to protection of the family, the right to food, the right to development, the right to a clean, healthy and sustainable environment and the right of peoples to peace.
3. Consequently, the Applicant State seeks adequate reparation for the harm resulting from the alleged violations, including the withdrawal by the Respondent State of its troops from its territory and the immediate cessation of all forms of support to M23. The Applicant State further prays the Court to reserve further proceedings in respect of reparations due to it and to the victims of the alleged violations, in accordance with Article 27(1) of the Protocol and Rules 40(4) and 69(3) of the Rules. Finally, it seeks an order compelling the Respondent State to bear the full costs of the proceedings.

## **II. PROCEDURE BEFORE THE COURT**

4. On 21 August 2023 and 19 September 2023, the Applicant State filed, in French, the main Application followed by a “Supplementary Request for expedited consideration of the Application”.
5. On 2 October 2023, the Registry served the Application on the Respondent State, together with the pleadings as well as the Supplementary Application for its responses within ninety (90) and thirty (30) days respectively.
6. On 28 October 2023, the Respondent State requested the Registry to transmit to it the above applications and documents in English.
7. On 16 November 2023, the Registry transmitted to the Respondent State the Applications and documents in English for its responses within the same time-limits as those indicated in paragraph 5 of this Ruling.
8. The Respondent State acknowledged receipt of the Applications and documents on 4 December 2023.
9. Upon the expiration of the stipulated time limit, the Respondent State did not file its response to the Additional Application.

## **III. ON THE EXPEDITED CONSIDERATION OF THE CASE**

10. The Applicant State submits that its request seeks to ensure prioritisation of the enrolment and expedited consideration of the case, namely, in respect of the filing of pleadings by the Parties and other entities that might be interested, within shorter time-limits than provided for in the Rules, as well as abridgment

of the duration of the proceedings to six (6) months towards the delivery of its judgment.

11. The Applicant State avers that it is entitled to request for these measures under Rule 90 of the Rules, and in line with the Court's practice in both advisory and contentious matters.
12. In support of its claims, the Applicant State argues, first, that an expedited procedure is justified insofar as it guarantees both its rights and those of the victims, including the right to be tried within a reasonable time and the right to an effective remedy, as protected by the Charter and applicable instruments.
13. The Applicant State further submits that the importance and nature of the issues raised in the Application require the Court to grant its requests. It points out that violations were committed against its civilian population, including women, children and other vulnerable groups. In its view, it is necessary to fight impunity in relation to human rights violations committed by African States.
14. In addition, the Applicant State refers to the imminent danger and ongoing violation of the rights of the residents of the areas occupied by the M23 coalition and the Respondent State's armed forces. In this regard, the Applicant State asserts that the continued occupation of its territory by the Respondent State's army causes murders, rapes, thefts, displacement of persons, in addition to preventing its administration from deploying across the country. The Applicant State further avers that a lengthy procedure will result in great human, economic and social costs.
15. Finally, the Applicant State submits that the pedagogical nature of the decision requires priority consideration of the case. In the Applicant State's view, it is in the Court's interest to do so, since its Application is the first ever inter-state

case, such that the Member States of the African Union and their populations await the Court's decisions with anticipation.

16. The Respondent State did not file a response to the request for expedited procedure.

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17. The Court recalls that the Applicant State requests that its Application be promptly registered and enrolled for priority consideration by abridging the time limits for filing pleadings, and conducting deliberations.

**A. On the request for the Application to be enrolled**

18. The Court observes that a case is enrolled when it is registered in the Registry's register provided for this purpose and assigned a number in accordance with Rule 21 of the Rules.
19. It further observes that by notice of 22 August 2023, the Registry acknowledged receipt of the Application filed the previous day by the Applicant State. On 19 September 2023, the Registry sent the Applicant State a notice of registration in respect of the said Application, indicating the case references thereof.
20. The Court notes that the case was thus effectively enrolled, and that the Applicant State was duly informed.
21. It follows that the request for enrolment of the main Application is moot.

## **B. On the request for abridgment of the time-limit to file pleadings**

22. The Court notes that although Rule 90 of the Rules of Court stipulates that no provision of the Rules can limit or affect the Court's power to take all such actions as may be necessary in the interest of justice, the power thus conferred on the Court is neither unlimited nor absolute. It is exercised on a case-by-case basis, in the interest of the proper administration of justice and, therefore, the protection of the rights of the Parties, including the defence rights.
23. The Court observes that with regard to time limits to file pleadings, the Rules of Court provide for two regimes, namely, one whereby time-limits are expressly stated and another under which determination of time-limits is at the discretion of the Court or its President.
24. The Court notes that the Applicant State's request for expedited procedure relates to both the first regime, insofar as the filing of the Parties' written pleadings is concerned, whereby the time-limits are set out under Rule 44(1)(2)(3)(4) of the Rules; and the second regime governing the time-limit the intervening parties to file their written pleadings which is left to the Court's discretion, pursuant to Rule 61(6) of the Rules.
25. With regard to the filing of pleadings by the Parties, the Court notes that Rule 44(1) requires the Respondent State to file its response within ninety (90) days. This provision guarantees the right to defence. Unless a party expressly waives it, the Court may not, without encroaching upon the said right, abridge that time-limit, insofar as it constitutes one of the essential requirements of a fair trial.
26. The Court observes that in the present case, as the Respondent State has not expressly forfeited its right to the time-limit referred to, the Court cannot grant the request for an abridgement of the said time-limit to file its response.



27. With regard to the filing of pleadings by potential intervening Parties, the Court notes that Rule 61(6) does not set any time-limit to that effect.
28. The Court therefore dismisses the said request and decides to proceed with the matter in accordance with the Rules in respect of the time-limit to file pleadings.

**C. On the request to abridge the time-limit for deliberation**

29. The Court notes that, under Rule 69 of the Rules, which reiterates the provision of Article 28 of the Protocol, the Court shall render its judgment within ninety (90) days of completing its deliberations.
30. The Court notes, without prejudging the merits of the case, that the Applicant State predicates its Application on the existence on its territory of an armed conflict involving a group with the alleged financial and military support of the Respondent State. The said conflict has allegedly resulted in massive loss of human lives, acts of rape, and destruction of properties, which reveal a certain level of complexity in the matter.
31. In light of the foregoing, the Court considers that the request to abridge the time-limit for deliberation may be at odds with the interests of justice.
32. This notwithstanding, the Court is of the view that the allegations made by the Applicant State refer to violations whose nature and scope appear to require settlement within a timeframe consistent with the interest of justice. As such, the merits of the case require examination as a matter of priority.
33. Accordingly, the Court dismisses the request to abridge the time-line for deliberation and decides to process the main Application in accordance with

the Rules. The Court further decides to consider the Application on a priority basis.

#### IV. OPERATIVE PART

34. For these reasons,

The COURT,

*Unanimously,*

- i. *Dismisses* the request for an expedited procedure.
- ii. *Decides* to proceed with the matter in accordance with the Rules.
- iii. *Decides* to consider the main Application on a priority basis.

**Signed by:**

Imani ABOUD, President;

And Robert ENO, Registrar.

Done at Arusha, this seventh day of March in the year Two Thousand and Twenty-Four, in English and French, the French version being authoritative.

