

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

APPLICATION NO. 020/2020

HOUNGUE ÉRIC NOUDEHOUEYOU

V.

REPUBLIC OF BENIN

CASE SUMMARY

I. THE PARTIES

1. On 4 June 2020, Mr. Houngue Éric NOUDEHOUE (hereinafter referred to as ('the Applicant'), a citizen of Benin, sole shareholder and manager of the company Tax Expertise Sarl (hereinafter referred to as ('Tax Expertise'), lodged an application with the Court against the Republic of Benin (hereinafter referred to as ('the Respondent State')).

II. SUBJECT OF THE APPLICATION

A. Facts of the Matter

2. It emerges from the application that on 29 July 2014, SBEE entered into a tax assistance contract with Tax Expertise, the purpose of which was to enable the former to make savings on a tax assessment totalling seven billion three hundred and thirty-four million one hundred and eighty-two thousand five hundred and ninety-six (7,334,182,596) CFA francs from the 2013 fiscal year.
3. The Applicant avers that having considered that his co-contractor had not fulfilled the contract, he summoned it before the Cotonou Court of First Instance, which dismissed his application by judgment No. 070/17/3e of 22 December 2017. He avers that he appealed against this judgement but that, at the time of filing this application, the Cotonou Court of Appeal had still not delivered its judgement, the case having been the subject of several adjournments for failure to file the impugned judgement. He contends that his rights protected by international human rights instruments have been violated by the national courts in the course of these proceedings.
4. The Applicant further avers that he granted a loan of ten million (10,000,000) CFA francs to Edouard OUIN-OUROU, allegedly a civil servant of the Respondent State. He claims that the latter has never repaid him the said sum despite numerous reminders, which, in his view, engages

the liability of the Respondent State since the events took place on its territory.

B. Alleged Violations

5. The Applicant alleges the violation of the following rights and obligations:
 - i. Violation of the right to a fair trial protected by Article 7 of the Charter and Article 14 (1) of the International Covenant on Civil and Political Rights (ICCPR);
 - ii. Violation of the right to legitimate expectations of justice, protected by the Charter, Articles 8 and 10 of the Universal Declaration of Human Rights (UDHR), Article 14 of the ICCPR and paragraph 3.2 of the Bangalore Principles of Judicial Conduct;
 - iii. Violation of the right to a remedy, protected by Articles 1 of the Charter, 2 (3) and 14 (1) of the ICCPR, and Articles 8 and 10 of the UDHR;
 - iv. Violation of the right to work and to remuneration, the right to property and the right to an adequate standard of living guaranteed by Articles 17 and 23 of the UDHR, 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and 4, 5, 14, 15 and 16 of the Charter;
 - v. The right not to be subjected to torture or cruel, inhuman or degrading treatment, protected by Articles 5 of the Charter and 7 of the ICCPR;
 - vi. Violation of the obligations on working conditions set out in Articles 2, 6 and 7 of the ICESCR;
 - vii. Violation of the obligations set out in Article 1 of the Charter.

III. PRAYERS OF THE APPLICANT

6. The Applicant prays the Court to:
 - i. Declare that it has jurisdiction;
 - ii. Declare the application admissible;
 - iii. Declare that the violation of his rights protected by Articles 1, 4, 5, 7, 14, 15 and 16 of the Charter, 2 (3) (7), and 14 (1) of the ICCPR, 8, 10, 17 and 23 of the UDHR, 2, 6, 7 and 11 of the ICESCR, are well-founded and that the Respondent State is responsible for these violations;

- iv. Order the Respondent State to reimburse him, through its relevant structures, the sums involved in the deprivation of the right to property and/or a decent standard of living, i.e. the sum of five billion fifty-eight million (5,058,000,000) CFA francs, within one month of delivery of the Court's decision, in accordance with the requirements of Chapter 'IX' of United Nations Resolution 60/147 of 16 December 2005 and the case law of this High Court and the Permanent Court of International Justice, according to which 'the State responsible for the violation must endeavour to "erase all the consequences of the unlawful act and re-establish the situation which would probably have existed had the said act not been committed"'.
- v. Order the Respondent State to pay him interest on the damages relating to the deprivation of his right to property and/or his right to a decent standard of living, at the annual rate of 12%, capitalised monthly from February 2015 until the date of full and complete compliance with the Court's decision;
- vi. Order the Respondent State to pay him the sum of two hundred and fifty million (250,000,000) CFA francs in respect of moral prejudice;
- vii. Order the Respondent State to pay his lawyers' fees in respect of the exercise of the rights of the defence in Benin and before this Court, as well as the costs of documents and proceedings incurred on presentation of supporting documents;
- viii. Order the Respondent State to pay him, for failure to comply with the earlier decisions rendered by this Court interests on the award in the lump sum amount of three hundred million (300,000,000) CFA francs per month for any failure to comply with the Court's decision, from the date of service of the Court's decision until full compliance; and
- ix. Order the Respondent State to bear the costs.