


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

THE MATTER OF

DOMINGOS SIMÕES PEREIRA

V.

REPUBLIC OF GUINEA-BISSAU

APPLICATION No. 012/2024

RULING
(PROVISIONAL MEASURES)

26 JUNE 2025



The Court composed of: Modibo SACKO President; Chafika BENSAOULA, Vice-President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Blaise TCHIKAYA, Stella I. ANUKAM, Imani D. Aboud, Dumisa B. NTSEBEZA, Dennis D. ADJEI and Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In the Matter of:

Domingos Simões PEREIRA,

Represented by:

- i. Ruth Monteiro, Advocate;
- ii. Octávio Lopes, Advocate;
- iii. Gabriel Umabano, Advocate;
- iv. Luís Vaz Martins, Advocate; and
- v. Vasco Biagué, Advocate.

Versus

REPUBLIC OF GUINEA-BISSAU

Represented by:

- i. Bacar Biai, Attorney General;
- ii. Jucelino de Gaulle Cunha Pereira, Deputy Attorney General;
- iii. Teresa Alexandrina da Silva, Assistant Attorney General; and
- iv. Julio Antonio Ca, Assistant Attorney General.

After deliberation,

issues the present Order:

I. THE PARTIES

1. Mr. Domingos Simões Pereira (hereinafter referred to as “the Applicant”) is a former Prime Minister of the Republic of Guinea-Bissau. He alleges violation of his rights by the judicial authorities of his country.
2. The Application is filed against the Republic of Guinea-Bissau (hereinafter referred to as “the Respondent State”) which became a party to the African Charter on Human and Peoples’ Rights (hereinafter referred to as “ the Charter”) on 21 October 1986, and to 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”) on 2 November 2021. On the same date, the Respondent State deposited the Declaration provided for under Article 34(6) of the Protocol (hereinafter referred to as “the Declaration”) by which it accepts the jurisdiction of the Court to receive cases from individuals and non-governmental organizations having observer status before the African Commission on Human and Peoples’ Rights.

II. SUBJECT OF THE APPLICATION

3. It emerges from the record that, in 2015, criminal proceedings were instituted against the former Minister of the Economy and Finance of the Respondent State, in which the Applicant, then Prime Minister, was allegedly implicated. In 2016, the Public Prosecutor, having concluded that there was no basis to further prosecute the accused persons, issued Ordinance No. 25/GLCCDE/2016 closing the criminal investigation.
4. Furthermore, the judge dismissed another criminal case No. 02/2018, on the grounds that there was insufficient evidence.

5. The Applicant claims that despite the above decisions, he was persistently persecuted by the Public Prosecutor. He cites as evidence the issuance of an INTERPOL Red Notice against him, which is tantamount to a travel ban.
6. On 15 February 2022, the Applicant lodged an appeal against this measure, following which, on 28 February 2022, the Prosecutor in charge of the case annulled the order designating him as a suspect, revoked the red notice, and withdrew the allegations levelled against him.
7. However, the Attorney General subsequently reopened case No. 02/2018, which had hitherto been suspended, and reinstated the travel ban. The Applicant avers that he challenged this measure before the Court of Appeal on 7 March 2022. By decision of 18 July 2022, the Court of Appeal declared the Attorney General's order void and unconstitutional.
8. Lastly, on 31 July 2024, a new notice of summons from the Attorney General was issued, linking the Applicant to criminal proceedings No. 2/2018. The Applicant claims that this summons is based on erroneous facts and distorted legal grounds, with the aim to, once again, restrict his freedom of movement. On that same date, a new travel ban was allegedly issued against him, on the direct instructions of the Respondent State's President.

III. ALLEGED VIOLATIONS

9. The Applicant alleges violation of the following rights:
 - i. The right to fair trial, protected by Article 7 of the Charter;
 - ii. The right to freedom of movement, protected by Article 12 of the Charter;
 - iii. The right to participate freely in the government of one's country, protected by Article 13(1) of the Charter;

- iv. The right to work under equitable and satisfactory conditions and to receive equal pay for equal work, protected by Article 15 of the Charter;
- v. The obligation to guarantee the independence of the courts, provided for under Article 26 of the Charter.

IV. SUMMARY OF THE PROCEDURE BEFORE THE COURT

- 10. The Application was filed together with a request for provisional measures at the Registry on 30 September 2024.
- 11. On 3 February 2025, the Applicant was requested to file documents and evidence in support of his Application within 30 days.
- 12. On 4 February 2025, the Application was served on the Respondent State for its Response to the request for provisional measures and to the Application, within 30 and 90 days respectively.
- 13. On 7 March 2025, the Respondent State filed its Response to the request for provisional measures, which was transmitted to the Applicant.

V. ON *PRIMA FACIE* JURISDICTION

- 14. Article 3(1) of the Protocol provides that:

The jurisdiction of the Court shall extend to 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.

15. Pursuant to Rule 49(1) of its Rules¹, “the Court shall conduct preliminary examination of its jurisdiction...” However, as regards provisional measures, the Court need not ensure that it has jurisdiction on the merits of the case, but simply that it has *prima facie* jurisdiction.²
16. In the present case, the rights alleged by the Applicant to have been violated are protected by the Charter, to which the Respondent State is a Party. The Court further recalls that the Respondent State has ratified the Protocol and deposited the Declaration.
17. The Court therefore finds that it has *prima facie* jurisdiction to entertain the request for provisional measures.

VI. PROVISIONAL MEASURE REQUESTED

18. The Applicant requests the Court to summarily order the suspension of the Public Prosecutor's summons No. 2/2018 implicating him in criminal proceedings.

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19. The Respondent State simply submits that the Applicant does not meet the requirements for granting provisional measures.

20. The Court notes that Article 27(2) of the Protocol provides:

In cases of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons, the Court shall adopt such provisional measures as it deems necessary.

¹ Rules of Court of 25 September 2020.

² *Komi Koutche v. Republic of Benin* (provisional measures) (2 December 2019) 3 AfCLR 725, § 14.

21. In light of the foregoing, the Court may order provisional measures only in cases of extreme gravity or urgency, and in order to prevent irreparable harm to individuals.
22. The Court notes that urgency, which is consubstantial with extreme gravity, means a “real and imminent likelihood that irreparable harm will be caused before it renders its final decision”.³ The risk in question must be real, which excludes a purely hypothetical or abstract risk. It entails a serious risk to justify the necessity to remedy it immediately.⁴
23. The Court notes that for there to be irreparable harm, there must be a “reasonable risk of its occurrence” with regard to the context and the personal situation of the Applicant(s).⁵
24. The Court observes that it is for the party requesting provisional measures to provide proof of urgency or extreme gravity, as well as proof of the irreparable nature of the harm.⁶
25. The Court notes that, in the instant case, the Applicant merely requests an order for provisional measures suspending the notice of summons of 31 July 2024 until a final decision in the present case has been issued, without providing any justification for the request.
26. In this regard, the Court notes that the Applicant does not prove that there is sufficient urgency or extreme gravity to warrant the measure he seeks. Indeed, the Attorney General’s notice, the suspension of which he is seeking, was published on 31 July 2024. However, the Applicant did not seize the Court until 4 September 2024, that is, more than a month later. Such a delay rules out the existence of urgency, since that term implies imminent action.

³ *Sébastien Ajavon v. Republic of Benin* (provisional measures) (17 April 2020) 4 AfCLR 123, § 60.

⁴ *Ibid*, § 62.

⁵ *Ibid*, § 63.

⁶ *Symon Vuwa Kaunda and 5 Others v. Republic of Malawi* (provisional measures) (10 April 2021) 5 AfCLR 174, § 22.

27. The Court further considers that the Applicant does not prove the irreparable nature of the harm that the publication of the notice to appear issued by the Public Prosecutor could cause him. His mere allegations that he was unable to manage his affairs abroad owing to the travel ban cannot suffice to establish the existence of such harm.
28. Accordingly, the Court dismisses the request for provisional measures.
29. For the avoidance of doubt, the Court notes that this Ruling does not in any way prejudice its decision on its jurisdiction, the admissibility of the Application and the merits thereof.

VII. OPERATIVE PART

30. For these reasons,

THE COURT,

Unanimously,

Dismisses the request for provisional measures.

Signed:

Modibo SACKO, President;

and Robert ENO, Registrar.

Done at Arusha, this Twenty-Sixth Day of June in the year Two Thousand and Twenty-Five, in Portuguese, French and English, the Portuguese version being authoritative.

