Kodeih v Benin (admissibility) (2021) 5 AfCLR 492

Application 006/2020, *Ghaby Kodeih v Republic of Benin*

Ruling, 30 September 2021. Done in English and French, the French text being authoritative.

Judges: ABOUD, TCHIKAYA, KIOKO, BEN ACHOUR, MENGUE, MUKAMULISA, CHIZUMILA, BENSAOULA, ANUKAM, NTSEBEZA and SACKO

The Applicant operated an hotel business in the Respondent State and claimed that domestic legal proceedings brought against his business and the decisions of the domestic courts in those proceedings were in violation of his human rights. Following the Respondent State's challenge on admissibility, the Court held that the Application was inadmissible for failure to exhaust local remedies.

Jurisdiction (material jurisdiction, 28-31)

Admissibility (exhaustion of local remedies, 48-52, 54-60; effective remedy, 65-66)

I. The Parties

1. Ghaby Kodeih, (hereinafter referred to as "the Applicant") is a national of Benin. He is the sole proprietor and General Manager of the Société d'Hôtellerie, de Restauration et de Loisirs (hereinafter referred to as " SHRL"). He alleges the violation of his rights in the course of legal proceedings initiated against the SHRL.

2. The Application is filed against the Republic of Benin (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 22 August, 2014. On 8 February 2016, the Respondent State deposited the Declaration prescribed under Article 34(6) of the Protocol (hereinafter referred to as "the Declaration") through which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations. On 25 March 2020, the Respondent State deposited with the African Union Commission an instrument withdrawing the said Declaration. The Court held that this withdrawal has no bearing on pending cases and new cases filed before the withdrawal came into effect, that

is, on 26 March 2021.[1]

II. Subject of the Application

A. The Facts of the matter

3. It emerges from the Application that, the Applicant established SHRL, where he is the General Administrator and sole proprietor, for the the construction of the five (5) star hotel. He signed an agreement with the Marriott Hotels and Resorts Group allowing him to operate under its franchise. The hotel was to be funded by the following partners: (1) the West African Development Bank (hereinafter "WADB") up to Seven Billion Four Hundred Million (7,400,000,000) CFA Francs; (2) a consortium of banks comprising Société Générale de Banque, Côte d'Ivoire (hereinafter "SGBCI"), Société Générale de Banque, Burkina Faso (hereinafter, "SGBF") and Société Générale de Banque, Benin (hereinafter, "SGB") to the tune of Eleven Billion Nine Hundred Million (11,900,000,000) CFA francs; and (3) by the Applicant to the tune of Eleven Billion Seven Hundred and Fifty-three Million (11,753,000,000) CFA francs.

4. The Applicant states that by notarised deeds dated 13 November and 16 December 2014, the consortium of banks entered into an agreement with SHRL for a credit facility totaling Eleven Billion Nine Hundred Million (11,900,000,000) CFA Francs.

5. He further submits that the notarial was completed by an additional clause dated 27 and 28 February 2017 for mortgage on an incomplete building belonging to the borrowing company with Land Title No.14140 in the Cotonou Land Register measuring 1 hectare 54 acres 34 centiares.

6. The Applicant alleges that he and SHRL, met all the conditions imposed by WADB for the disbursement of its loan, however, those directly incumbent on SGB could not be met for reasons attributable to the latter. For this reason, WADB cancelled its disbursement at a time when the construction of the building was almost completed.

7. He further submits that thereafter, SGB unilaterally denounced the current account binding it to SHRL and demanded to be paid the sum of Fourteen Billion Seven Hundred and Forty-nine Million Four

1 *Houngue Eric Noudehouenou v Republic of Benin*, ACtHPR, Application No. 003/2020, ruling (Provisional measures), 5 May 2020, §§ 4-5 and Corrigendum of 29 July 2020.

Hundred and Twenty-Five Thousand and Eight (14,749,425,008) CFA Francs, following a property seizure payment order dated 4 September 2019.

8. SGB has also initiated legal proceedings for the sale of the mortgaged building, by filing a schedule of charges on 11 September 2019 at the Registry of the Cotonou Commercial Court in Benin.

9. The Applicant alleges that the said Cotonou Commercial Court rendered Judgment No. 14/19/CSI/TTC on 19 December 2019 in first and last instance, the operative part of which reads as follows:

- Ruling publicly after hearing the parties in matters of real estate seizure litigation, before the law, in first and last resort;
- Declares that it has jurisdiction;
- Dismisses the requests for annulment of the order to pay, the schedule of charges and the lawsuit;
- Dismisses the requests for real estate and accounting expertise;
- Rules that the auction will take place on 30 January 2020 in the presence of Mr. Jean Jacques GBEDO, Notary in Cotonou;
- Reserves the costs.

10. On 30 January 2020, the court auctioned the SHRL building at the reserved price of seven billion (7,000,000,000) CFA francs, for lack of a bidder, with the proceeds to be paid to SGB.

11. The Applicant considers that the Cotonou Commercial Court in Benin court erred in rendering the decision of 19 December 2019 which denied him the right to an appeal. He contends that since that court ruled on the principle of a contested claim, the judgment could not be considered as final and not subject to appeal. He argues this on the basis of the provisions of Article 300 of the Organization for the Harmonization of Business Law in Africa Uniform Act Organizing the Harmonization in Africa of Business Law (OHADA) on the organizing of simplified recovery and enforcement procedures (hereinafter referred to as "UASPEP").[2]

12. The Applicant alleges that the judgment of the Cotonou Commercial Court No. 14/19/CSI/TTC of December 19, 2019 violates his rights to file an Application before this Court.

2 Article 300: Judicial decisions rendered in matters of seizure of property are not subject to appeal. They may be appealed only where they rule on the very principle of the claim or on the substantive grounds of the incapacity of one of the parties, the ownership, unseizability or inalienability of the seized property. The decisions of the court of appeal are not subject to opposition. The means of appeal are open under the conditions of common law.

B. The alleged violations

13. The Applicant alleges the violation of the following rights:
i. The right to a fair trial, protected by Article 7(1)(a)(d) of the Charter; and
ii. The right to property, protected by Article 14 of the Charter.

III. Summary of the Procedure before the Court

14. On 14 February 2020, the Applicant filed the Application together with a request for provisional measures. It was served on the Respondent State on 18 February 2020, with a request to file its Response to the request for provisional measures and on the merits within eight (8) and sixty (60) days, respectively from the receipt.

15. In its Order on the request for provisional measures, issued on 28 February 2020, the Court ordered the Respondent State to "suspend any transfer of Land Title No. 14140, Volume LXIX, folio 149 of the Cotonou Land Register to the successful bidder or any third party, and any dispossession of the Applicant of the property", in execution of the Judgment of the Cotonou Commercial Court of 19 December 2019. The Order was served on the parties on 5 March 2020.

16. The parties filed their pleadings on the merits and remedies within the time limits set by the Court.

17. Pleadings were closed on 8 March 2021 and the parties were duly notified.

IV. Prayers of the Parties

18. The Applicant prays the Court to:
i. Declare that it has jurisdiction;
ii. Declare the Application admissible;
iii. Declare that the Republic of Benin violated Articles 7(1) (a), 7(1) (d) and 14 of the African Charter on Human and Peoples' Rights;
iv. Order the annulment of Judgment ADD No.14/19/CSI/TCC of 19 December 2019 with all its legal effects;
v. Order the annulment of the results of the 30 January 2020 auction;
vi. Serve notice to the Applicant to produce evidence of the prejudice he suffered, certified by experts;
vii. Order the State of Benin to pay to him the sum of 72 500 000 000 FCFA as damages;

viii. Order the Republic of Benin to report to the Court within such time as the Court may determine on the implementation of the decision to be taken;

ix. Order the Republic of Benin to pay the costs.

19. The Respondent State prays the Court to:

i. Find that there is no violation of the human rights alleged to have been violated;

ii. Find that the Applicant seeks the annulment of Judgment ADD No. 14/19/CSI/TCC of December 19, 2019 issued by the Commercial Court of Cotonou, as well as the results of the auction sale.

iii. Find that the Court itself has already ruled that it is not Court of Appeal for decisions rendered by domestic courts;

iv. Find that the Court has no jurisdiction;

v. Consequently, declare that it does not have jurisdiction.

vi. Find that at the time of hearing the Application, the local remedies had not been exhausted before the parties brought the case before the African Court;

vii. Find that local remedies are available, effective and offer a chance of success;

viii. Consequently, to declare the request of Mr. Ghaby Kodeih inadmissible.

In the alternative, the Respondent State prays the Court to:

i. Find that there has never been a violation of the right to a fair trial.

ii. Find that the Respondent State has not violated Article 7(1) (a) (d) of the African Charter on Human and Peoples' Rights.

iii. Find that the Respondent State has not violated the Applicant's right to property and therefore has not violated the provisions of Article 14 of the African Charter on Human and Peoples' Rights.

iv. Find that the Applicant did not prove the alleged harm caused him by the Respondent State;

v. Find that the Respondent State did not commit any fault that c\ resulted in any harm requiring any compensation;

vi. Declare that there is no ground for compensation;

vii. Consequently, purely and simply dismiss the Application by Mr Ghaby Kodeih.

V. Jurisdiction

20. Article 3 of the Protocol provides:

1. 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

2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

21. Furthermore, according to Rule 49(1) of the Rules of Court, "The Court shall preliminarily ascertain its jurisdiction … in accordance with the Charter, the Protocol and these Rules".[3]

22. Based on the above-mentioned provisions, the Court must, for each application, conduct an assessment of its jurisdiction and dispose of objections thereto, if any.

23. The Court notes that in the instant case the Respondent State raises an objection based on the Court's lack of material jurisdiction.

A. Objection based on the Court's lack of material jurisdiction

24. The Respondent State notes that the Applicant seeks the annulment of Judgment No. 19/CSI/TCC of 19 December 2019 rendered by the Cotonou Commercial Court as well as the results of an auction sale.

25. It states that this request is tantamount to asking the Court to question the impugned judgment. It contends that the Court would effectively be exercising appellate jurisdiction, whereas according to its jurisprudence, in particular the judgment of 20 November 2015 in *Alex Thomas v United Republic of Tanzania*, it is not an appellate court with respect to domestic courts.

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26. The Applicant submits that under Article 3(1) of the Protocol, the Court has jurisdiction insofar as the Respondent State ratified the Charter on 21 October 1986 and the Protocol on 22 August 2014. He further contends that on 8 February 2016, the Respondent State deposited the Declaration.

3 Formerly Rule 39(1) of the Rules of Court of 2 June 2010.

27. The Applicant further submits that the alleged violations relate to rights protected by Articles 7 and 14 of the Charter.

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28. With regard to the Respondent State's objection based on the fact that the Court is requested to sit as an appellate court, the Court notes that, in accordance with its established jurisprudence, it has jurisdiction to examine whether the relevant proceedings before the domestic courts meet the standards prescribed by the Charter or by any other relevant human rights instrument ratified by the State concerned.[4]

29. The Court observes that in the procedure before domestic courts, the Applicant alleges a violation of the right to a fair trial and the right to property protected by Articles 7 and 14 of the Charter respectively, the interpretation and application of which fall within its material jurisdiction.

30. Accordingly, the Court is not called upon to sit as an appellate court but rather to act within its material jurisdiction. It follows that the objection raised by the Respondent State is dismissed.

31. Therefore, the Court concludes that it has material jurisdiction to hear this case.

B. Other aspects of jurisdiction

32. Having found that there is nothing on record showing that it lacks jurisdiction with respect to the other aspects of jurisdiction, the Court concludes that it has:

i. Personal jurisdiction, insofar as the Respondent State is a party to the Charter, the Protocol and has deposited the Declaration. In this regard, the Court recalls its previous position that the Respondent State's withdrawal of its Declaration on 25 March 2020, has no bearing on the instant Application, as the withdrawal was made after

4 *Ernest Francis Mtingwi v Malawi* (jurisdiction) (15 March 2013), 1 AfCLR 190, § 14; *Kenedy Ivan v Tanzania*, ACtHPR, Application No. 25/2016, 28 March 2019, (merits and reparations) § 26; *Armand Guéhi v Tanzania* (merits and reparations) (7 December 2018), 2 AfCLR 493, §33; *Nguza Viking (Babu Seya) and Johnson Nguza (Papi Kocha) v Tanzania* (merits) (23 March 2018) 2 AfCLR 287, § 35. *Kalebi Elisamehe v United Republic of Tanzania*, *Tanzania*, Application No. 028/2015, Judgment of 26 June 2020, § 18.

the filing of this Application with the Court.[5]

ii. Temporal jurisdiction, insofar as the alleged violations occurred, in relation to the Respondent State, after the Respondent State became a party to the Charter and the Protocol, as mentioned in paragraph 2 of this Ruling.

iii. Territorial jurisdiction, insofar as the facts of the case and the alleged violations took place in the Respondent State's territory.

33. Accordingly, the Court holds that is has jurisdiction to determine the present Application.

VI. Admissibility of the Application

34. Article 6(2) of the Protocol provides that "the Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter".

35. According to Rule 50(1) of the Rules of Court,[6] "The Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6 (2) of the Protocol and these Rules".

36. Rule 50(2) of the Rules of Court, which restates the provisions of Article 56 of the Charter, provides:

Applications filed before the Court shall comply with all of the following conditions:

a. Indicate their authors even if the latter request anonymity,

b. Are compatible with the Constitutive Act of the African Union and with the Charter,

c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union,

d. Are not based exclusively on news disseminated through the mass media,

e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,

f. be filed within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the Matter;

g. not raise any matter or issues previously settled by the parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union.

5 See paragraph 2 of this Ruling.

6 Formerly Rule 40 of the Rules of 2 June 2010.

37. The Court notes that the Respondent State raises an objection on admissibility of the Application due to non-exhaustion of local remedies.

A. Objection based on non-exhaustion of local remedies

38. The Respondent State contends that the decision whose annulment is sought by the Applicant was rendered under the provisions of the Uniform Act of Simplified Procedures and Enforcement Procedures (UASPEP) adopted on 10 April 1998 by the States Parties to the 17 October 1993 OHADA treaty, to which Benin is a party, as amended by the treaty of 17 October 2008.

39. The Respondent State assert that although the 19 December 2019 judgment was rendered in the first and last instance by the Cotonou Commercial Court, subsequently, on 31 December 2019, the Applicant appealed to the Cotonou Court of Appeal and also filed on 26 February 2020, an appeal in cassation at the Common Court of Justice and Arbitration (hereinafter referred to as the "CCJA") pursuant to Article 14 of the OHADA Treaty.

40. The Respondent State observes that without waiting for the outcome of the appeal procedure and even before the CCJA had been seized, the Applicant filed this Application before this Court.

41. The Respondent State, therefore concludes that the Application was not filed after the exhaustion of local remedies.

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42. In his Reply, the Applicant alleges that the domestic courts lack impartiality and independence because of the massive invasion of the executive power in the Superior Council of the Judiciary (hereinafter referred to as "the SCJ") as a result of the new Article 1 of Organic Law No. 2018-02 relating to the SCJ. This law calls into question the principle of separation of powers and the independence of the judiciary justice.

43. The Applicant, further contends that the appeal to the CCJA is not a local remedy since, under Article 13 of the OHADA Treaty, the assessment of disputes relating to the application of uniform acts is a matter for domestic courts at first instance and on appeal.

44. He further submits that the appeal in cassation before the CCJA is an extraordinary remedy since the CCJA rules on law and not on fact, and that in accordance with the judgment in Application

No. 005/2013 *Alex Thomas v United Republic of Tanzania* the Applicant is not required to exhaust an extraordinary remedy. He concludes that local remedies have been exhausted.

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i. The appeal to the Cotonou Court of Appeal

45. The Court notes that the judgment of 19 December 2019 was rendered by the Commercial Court of Cotonou as a court of "first and last instance", in the context of a seizure of property.[7] This Court notes that the judgment in question can only be appealled to cassation before the CCJA.[8]

46. Therefore, the Court considers that the issue to be examined is the remedy of the the cassation appeal before the CCJA in order to determine whether the Applicant had to exhaust this remedy before filing this case before it.

47. In this regard, the Court considers that the exhaustion of the appeal before the Cotonou Court of Appeal is not relevant to the examination of the question of exhaustion of local remedies.

ii. Cassation appeal before CCJA

48. The Court notes that, pursuant to Rule 50(2) of the Rules, in order for an application to be admissible, local remedies must first be exhausted, except where they are unavailable, ineffective or insufficient, or where the proceedings have been unduly prolonged.[9]

49. The Court further considers that the remedies to be exhausted are those of a judicial nature that can be used without obstacle by the Applicant and that are effective, in the sense that they are "capable of giving satisfaction to the plaintiff" or of remedying the

7 Articles 246 to 334 of the Uniform Act Organizing Simplified Collection Procedures and Enforcement Measures adopted on 10 April 1998;

8 Article 14(4) of the OHADA Treaty: "The Court shall rule as above with regard to decisions delivered by the national courts of the States Parties in the same disputes, which are not appealable to the national Court of Appeal".

9 *Norbert Zongo and Others v Burkina Faso* (preliminary objections) *op. cit.* § 84.

situation in dispute. The Court emphasizes that the requirement to exhaust local remedies is assessed, in principle, on the date proceedings are instituted before it.[10]

50. The Court further points out that compliance with this requirement presupposes that the Applicant not only initiates the local remedies, but also awaits their outcome before filing his application with this Court.[11]

51. The Court recalls that the Applicant filed his application with the CCJA on 28 February 2020, that is, after filing the instant application with this Court on 14 February 2020.

52. The Court considers that in such circumstances, the Applicant should have waited for the outcome of this appeal before filing the Application before this Court,[12] in order to comply with the rule of exhaustion of local remedies.

53. The Court recalls that in support of his argument that he was not required to exhaust the remedy before the CCJA, the Applicant alleges that this remedy is not a local remedy, it is extraordinary and ineffective".

a. On the local nature of the appeal

54. The Court notes that the term "local remedies" applies to all the judicial means provided for in the domestic legal order of the State, with a view to enabling a case to be fully examined.

55. It is therefore a question of using all judicial means provided for by domestic legislation in an exhaustive manner.

56. The Court notes that integrating the provisions of the Ohada Treaty into the domestic law of the States does not require any specific procedure. The Rules provided for therein are common rules.[13]

57. The Court further observes that the OHADA Treaty establishes the CCJA, a jurisdiction common to seventeen (17) States, as a judge of cassation to hear all decisions rendered by the appellate courts of the Contracting States in all cases raising questions relating to the application of the Uniform Acts, as well as decisions not subject to appeal rendered by any court of the Contracting

10 *Yacouba Traoré v Republic of Mali*, ACtHPR, Application No. 010/2018, Judgment (jurisdiction and admissibility) 25 September 2020, § 41 et 42 ;

11 *Idem* note 9.

12 *Idem*, § 41.

13 *Idem*, § 41.

States.[14]

58. The Court notes that the CCJA has exclusive jurisdiction over the interpretation and application of matters governed by the Uniform Acts. It replaces not only the domestic supreme jurisdictions concerning appeals in matters governed by OHADA Uniform Acts, but also the domestic courts of the merits through its power of evocation.[15]

59. The Court therefore notes that the CCJA has integrated the judicial system of the Respondent State.

60. Consequently, the Court finds that the cassation appeal before the CCJA is a local remedy.

b. On the ordinary nature of the remedy

61. The Court recalls the Applicant's allegation that "the cassation appeal before the CCJA is an extraordinary remedy since it judges on the law and not on the facts and the Court does not consider such remedy".

62. The Court observes in the instant case that the cassation appeal before the CCJA is the only available remedy against appeal decisions and judgments not subject to appeal, rendered in matters governed by the Uniform Acts;

63. In addition, the rules of procedure before the CCJA indicate the extraordinary remedies of third party opposition and review,[16] which excludes by law the cassation appeal.

64. The Court concludes that the cassation appeal before the CCJA is an ordinary remedy.

c. On the effectiveness of the remedy

65. The Court has recognized that an effective remedy is one that has

14 Art. 1 of the Treaty : "The object of the present Treaty is to harmonise business law in the States Parties by the elaboration and adoption of simple modern common rules (…)".

15 Article 14(3)(4)(5) : "When sitting as a court of final appeal, the Court shall rule on decisions delivered by the Courts of Appeal of States Parties on all matters relating to the Uniform Acts and rules provided for in this Treaty with the exception of decisions administering criminal sanctions.
The Court shall rule as above with regard to decisions delivered by the national courts of the States Parties in the same disputes, which are not appealable to the national Court of Appeal.
Where the Court quashes the decision of the national court, it shall reconsider the case on its merits.

16 The Court shall rule as above with regard to decisions delivered by the national courts of the States Parties in the same disputes, which are not appealable to the national Court of Appeal.

the intended effect. It follows that the effectiveness of a remedy as such is the ability to remedy the situation complained of by the person seeking it.[17]

66. It also decided that the cassation appeal is not a impractical remedy since the cassation appeal can, in certain circumstances, lead to change or alter the merits of the challenged decision. Unless the appeal is made, it is impossible to know what the Court of Cassation would have decided.[18]

67. The Court notes in the instant case that in accordance with paragraphs 3 and 5 of Article 14 of the OHADA Treaty, the CCJA shall rule on decisions rendered in all cases raising questions relating to the application of uniform acts. As Article 14 of the said treaty emphasizes, "Where the Court quashes the decision of the national court, it shall reconsider the case on its merits". This power of evocation of the CCJA attests, to the effectiveness of appeal at the cassation as a remedy since it can lead to the modification of the impugned decision.

68. In the instant case, there is no doubt *a priori* that the CCJA has the ultimate capacity to bring about a change in the situation of the appellant on the merits of the case, should it find violations of the law in the treatment of the case by the court whose judgment is being challenged. As a result, the Court considers that an appeal to the CCJA is an effective remedy.

69. It therefore follows that the Applicant's arguments are not justified.

70. Accordingly, the Court finds that the Applicant has not exhausted local remedies so that the Application does not meet the requirement of Rule 50(2)(e) of the Rules.

B. Other conditions of admissibility

71. Having found that the Application has not satisfied the requirement in Rule 50(2)(e) of the Rules, the Court does not need to rule on the admissibility requirements set out in Article 56(1), (2), (4), (6), and (7) of the Charter and Rule 50(2)(a)(b)(d)(f) and (g) of the Rules,[19] as the admissibility requirements are cumulative. Therefore, if

17 Articles 47 and 49 of the CCJA Rules of Procedure.

18 *Beneficiaries of the late Norbert Zongo and Others v Burkina Faso* (merits) (Judgment of 28 March 2014) 1 AfCLR 219 §68.

19 *Idem*, §70.

one condition is not met, the Application is inadmissible.[20]

72. In view of the foregoing, the Court declares the Application inadmissible**.**

VII. Costs

73. Each party prays that the other party be ordered to pay the costs of this Application.

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74. According to Article 32(2) of the Rules,[21] "Unless otherwise decided by the Court, each party shall bear its own costs".

75. The Court notes that there is nothing in the circumstances of this case that warrants it to depart from this provision.

76. The Court therefore decides that each party should bear its own costs.

VIII. Operative part

77. For these reasons,

The Court,

Unanimously,

On jurisdiction

i. *Dismisses* the objection to its of jurisdiction;

ii. *Declares* that it has jurisdiction.

On admissibility

iii. *Upholds* the objection based on non-exhaustion of local remedies;

iv. *Declares* the Application inadmissible.

On costs

v. *Orders* each party to bear its own costs.

20 ***Mariam Kouma and Ousmane Diabaté v Republic of Mali*** (jurisdiction and admissibility) (21 March 2018) 2 AfCLR 237, § 63; ***Rutabingwa Chrysanthe v Republic of Rwanda*** (jurisdiction and admissibility) (11 May 2018) 2 AfCLR 361, § 48; ***Collectif des anciens travailleurs ALS v Republic of Mali***, ACtHPR, Application No. 042/2015, Judgment of 28 March 2019 (jurisdiction and admissibility), § 39.

21 Formerly Rule 30(2) of the Rules of 2 June 2010.