

Dabo & Ors v Mali (ruling) (2022) 6 AfCLR 786

Application 027/2017, *Mamadou Dabo and Others v Republic of Mali*

Ruling, 1 December 2022. Done in English and French, the French text being authoritative.

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

Recused under Article 22: SACKO

The Applicants are nationals of the Respondent State and former employees of a company operating in the Respondent State. Some of the Applicants were also members of two trade unions. The Applicants claimed that they were dismissed by their former employer as a result of a strike they embarked upon. They alleged that the Respondent State violated their human rights in its handling of their dismissal. Upholding the Respondent State's objection, the Court held that the Applicants had not exhausted local remedies. Accordingly, the Court declared the Application inadmissible.

Admissibility (exhaustion of local remedies, 55-64; cumulative nature of requirements, 65)

I. The Parties

1. Mr Mamadou Dabo and 55 Others (hereinafter referred to as "the Applicants"), are Malian nationals, and workers¹ of Louis Thomson Armstrong Mali SA (hereinafter referred to as "LTA Mali SA"), twenty-six (26) of whom are members of the National Federation of Mines and Energy (FENAME) and of the Confederation of Trade Unions of Malian Workers (CSTM). They allege a violation of fundamental rights in connection with their right to be heard.
2. The Application is filed against the Republic of Mali (hereinafter "the Respondent State"), which became a party to the African Charter on Human and Peoples' Rights (hereinafter "the Charter") on 21 October 1986, and to the Protocol on 20 June 2000. On 19 February 2010, the Respondent State deposited with the Chairperson of the African Union Commission the Declaration provided for in Article 34(6) of the Protocol (hereinafter "the Declaration"), by virtue of which it accepts the jurisdiction of the Court to receive applications from individuals and non-governmental organisations.

¹ See the list of workers in the annex.

II. Subject of the Application

A. Facts of the matter

3. It emerges from the records that on 11 June 2012, the Workers' Trade Union Committee of LTA Mali SA gave notice of a strike to the employer. In the notice, they called for the immediate cessation of the arrest and dismissal proceedings in respect of fifty-six (56) workers, twenty-six (26) of whom are trade unionists, the payment of arrears in respect of a seven per cent (7%) salary increase for thirty-two (32) months and performance bonus from 2011.
4. On 19 June 2012, negotiations failed and a strike was called from 28 to 29 June 2012.
5. Following the strike, the Director of LTAMali SA, by correspondence No. AMS/09/07/2012/HR dated 13 July 2012, sought clearance from the Regional Directorate of Kais (First Administrative Region of Mali) to dismiss twenty-six (26) workers including the Applicant, Mr. Mamadou Dabo, and all members of the Trade Union Committee.
6. In response, the Regional Labour Officer of Kais, by letter No. 0263/DRT-K, dated 13 July 2012, authorised the dismissal of twenty-six (26) workers and approved the suspension of thirty (30) other workers from work.
7. The FENAME, in response to these measures, issued a three (3) day strike notice from 18 to 20 July 2012, on behalf of the trade union committees of LTA Mali S.A. and Sadiola Gold Mines Operating Company (SEMOS) S.A. The Respondent State's Minister of Labour, Employment and Vocational Training was duly informed of the matter through the relevant channels.
8. To avoid the risk of the strike spreading to other regions of Mali, the Ministry of Labour, Employment and Vocational Training, by Decision No. 2012-0192 MTEFP-SG of 28 September 2012, set up an Arbitration Council to resolve the dispute between the LTA Mali S.A. and SEMOS S.A. and their employees affiliated to the FENAME in accordance with Articles L.225 *et seq.* of the Labour Law of Mali.
9. On 7 January 2013 the Arbitration Council released Resolution No. 001/C.A containing the findings of its arbitration, which read as follows:
 1. LTA-Mali S. A was to pay the workers the balance of arrears in respect of 7% salary increase for thirty-two (32) months;
 2. LTA-Mali S.A. was to pay the workers a performance bonus for

2011, in accordance with the provisions of Article 8 of the Geological and Aquatic Institutions Collective Agreement.

10. The Arbitration Council ordered the suspension of the arrest warrant issued by the Malian judiciary in respect of the fourteen (14) trade union leaders.
11. By a letter received at the secretariat of the Arbitration Council on 1 February 2013, LTA-Mali S.A. objected to the implementation of the Arbitration Council's Decision No. 001/C.A of 7 January 2013.
12. Subsequently, a group of workers comprising Ismaila TRAORÉ and twelve (12) other workers, filed a lawsuit against LTA-Mali S.A. before the Kayes Labour Court seeking an enforcement order in respect of the Arbitration Council's decision. The said court in its Ruling No. 015 of 24 June 2013 dismissed their request for entitlements and damages for lack of jurisdiction.
13. By letter No. 0039/MTASH/CAB dated 28 January 2014, the Minister of Labour and Social Affairs and Humanitarian Affairs of the Respondent State directed LTA-Mali SA to duly enforce Decision No. 001 of the Arbitration Council, but to no avail.
14. On 25 March 2014, FENAME filed a lawsuit against LTA-Mali S.A. seeking the enforcement of the Arbitration Council's award decision and on 2 June 2014 the Court rendered a ruling declining jurisdiction due to the collective nature of the dispute, on the one hand, and due to the fact that the objection to implementation filed on 1 February 2013 by LTA-Mali S.A. rendered the award null and void, on the other hand.
15. On 30 June 2014, the beneficiary workers of the arbitration award, through their trade union, the CSTM, by letter No. 14/00108 / CEN-CSTM, requested the Minister of Labour, Public Employment and Institutional Relations of Mali, to request Cabinet to implement the Arbitration Council's decision of 7 January 2013.
16. On 28 October 2015, the Minister of Labour, who was in charge of the matter, submitted a written memorandum at a Cabinet meeting seeking to enforce the decision of the Arbitration Council. Cabinet decided to withdraw the approval of the said memorandum on the grounds that the mining sector is not a core sector in the sense of ILO standards.
17. On 7 January 2016, the Minister of Labour, by letter No. 000010 / MTFP-SG, notified the said Cabinet decision to the Secretary-General of the Central Trade Union of the Confederation of Trade Unions of Malian Workers, who in turn notified the said decision to the members, including the Applicants, Mamadou Dabo and others.
18. On 1 November 2016, another group consisting of Mamadou DABO and twenty-five (25) other workers filed a case before

the Civil Court of the Bamako Commune II district claiming the amounts awarded by the Arbitration Council. The Court, in its decision No. 145 of 5 April 2017, dismissed the case for lack of jurisdiction.

19. On 10 January 2018, the same group of workers filed another case before the Labour Court of Bamako seeking enforcement of the Arbitration Council's award. By Order No. 09 of 22 January 2018, the President of the said Court issued an order dismissing the said case.
20. On 9 February 2018, the workers appealed the order before the Bamako Court of Appeal in which a decision was yet to be issued at the time of filing this Application.

B. Alleged violations

21. The Applicants allege that the Respondent State violated their rights as follows:
 1. The right to have their cause heard as provided for in Articles 7(1) of the Charter and Article 8 of the Universal Declaration of Human Rights of 1948 (hereinafter referred to as the "UDHR");
 2. The right to freedom of association provided for in Article 11 of the ILO Convention on Freedom of Association C87 of 1948, Articles 20 and 21 of the Constitution of Mali and Articles 21, L.231,² L.277 of the Labour Code of Mali.

III. Summary of the Procedure before the Court

22. The Application was filed with the Court on 25 September 2017. On 30 January 2018, the Registry requested additional information from the Applicants. A reminder was sent to the Applicants on 2 July 2018.
23. On 12 July 2018, the Applicants responded to the request for additional information and on 27 August 2018 they filed their requests for reparation.
24. On 14 August 2018, the Application was served on the Respondent State with a request to respond within sixty (60) days. The

2 The Respondent State became a party to ILO Freedom of Association Convention of 1948 in 1960.

Respondent State filed its Response on 9 October 2018.

25. The Parties filed their submissions within the time-limits specified by the Court and they were duly notified to the parties.
26. Pleadings were closed on 17 November 2020 and the parties were duly notified.

IV. Prayers of the Parties

27. The Applicants pray the Court to:
 1. Find that the Respondent State violated Article 7(1) of the Charter and Article 8 of the Universal Declaration of Human Rights.
 2. Find that the Respondent State violated Article 1 of the ILO Convention C87, and Articles 20 and 2i of the Constitution of Mali of 25 February 1992.
28. The Applicants also pray the Court to:
 1. Order the Respondent State to pay their salary arrears from July 2012 to 31 August 2018
 2. Order the Respondent State to pay an amount of Eighty Million (80,000.000) CFA francs, as arrears in respect of a 1999 7% salary increment, that is, a total of thirty-two (32) months.
29. Order the Respondent State to pay an amount of Four Billion (4,000, 000, 000) CFA francs as unpaid performance bonus.
 1. Order the Respondent State to pay an amount of Six Million CFA (6,000,000) CFA Francs per worker as reparation for damage suffered and lost earnings;
 2. Order the Respondent State to expedite the payment of half of the entitlements;
 3. Order the Respondent State to issue a work certificate to each former worker.
 4. Order the Respondent State to pay a fine of Four million (4,000.000) CFA francs per worker, for each day of delayed payment from the date of pronouncement of the decision.
 5. Order the Respondent State to bear the costs.
30. The Respondent State prays the Court to:

Declare the Application inadmissible.
31. In the alternative, the Respondent State prays the Court to:
 1. Dismiss the Application for being unfounded.
 2. Order the Applicants to bear the costs.

V. Jurisdiction

32. The Court notes that Article 3 of the Protocol provides as follows:
 - a. 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.

- b. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.
33. The Court recalls that, under rule 49(1) of the Rules, it “shall conduct preliminary examination of its jurisdiction and the admissibility of an Application in accordance with the Charter, the Protocol and these Rules.”³
 34. In view of the foregoing, the Court must conduct a preliminary assessment of its jurisdiction and dispose of objections thereto, if any.
 35. In the instant Application, the Court notes that the Respondent State does not raise any objections to its jurisdiction. Nonetheless, the Court must satisfy itself that it has jurisdiction to hear the Application.
 36. With regard to its material jurisdiction, the Court notes that the Applicants allege violations of Articles 7(1) of the Charter, Article 8 of the UDHR and Article 11 of the ILO Convention on Freedom of Association C87 of 1948. The Court recalls that the Respondent State is a party to the Charter and that the UDHR represents customary international law which is automatically binding on States.
 37. As regards personal jurisdiction, the Court notes that it has personal jurisdiction insofar as the Respondent State is a party to the Charter and the Protocol and has deposited the Declaration provided for in Article 34(6) which allows individuals and non-governmental organisations with observer status with the African Commission on Human Rights to submit cases directly to it.
 38. With regard to temporal jurisdiction, the Court notes that all the violations alleged by the Applicants took place after the Respondent State became a party to the Charter and the Protocol and after it had deposited the Declaration. Accordingly, the Court holds that it has temporal jurisdiction.
 39. With regard to territorial jurisdiction, the Court notes that the violations alleged by the Applicants occurred in the territory of the Respondent State and therefore its territorial jurisdiction is established.
 40. In view of the foregoing, the Court holds that it has jurisdiction to hear the instant Application.

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

VI. Admissibility

- 41.** Article 6(2) of the Protocol provides: “The Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter.”
- 42.** In line with Rule 50(1) of the Rules, “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.”
- 43.** Rule 50(2) of the Rules,⁴ which in substance restates the provisions of Article 56 of the Charter, provides as follows:
Applications filed before the Court shall comply with all of the following conditions:
 1. Indicate their authors even if the latter request anonymity;
 2. Are compatible with the Constitutive Act of the African Union and with the Charter;
 3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;
 4. Are not based exclusively on news disseminated through the mass media;
 5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
 6. Are submitted 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 seised with the matter; and
 7. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Constitutive Act of the African Union, or the provisions of the Charter.
- 44.** In the present Application, the Respondent State raises an objection based on non-exhaustion of local remedies. The Court will therefore consider the said objection (A) before examining other conditions of admissibility (B) if necessary.

A. Objection based on non-exhaustion of local remedies

- 45.** The Respondent State argues that the Applicants did not exhaust the local remedies available to them. It submits that local remedies in relation to the claim for reparation by Ismaila TRAORÉ and twelve (12) other workers ended at the level of the court of Kayes

4 Rule 40 of the Rules of 2 June 2010.

with judgment No. 015 of 24 January 2013. The said workers did not appeal that decision. The Respondent State submits that, the fact that the Applicants waived the judicial remedy of appeal and subsequent challenge at the Cassation Court, cannot be blamed on it acting through its public services. The Respondent State thus contends that the Application is not admissible and should be dismissed.

46. The Respondent State further submits that the case filed on 25 March 2014 by FENAME seeking confirmation of Arbitration Award No. 001/CA of 7 January 2013 issued by the Arbitration Council and contested by L.T.A. Mali S.A., on which the Labour Court of Bamako ruled in its Judgment No. 154 of 2 June 2014, did not reach the highest court in terms of civil proceedings. It submits that this is because the Applicants, who lost the case, did not pursue the remedies available to them under the Code of Civil Procedure of Mali. The Respondent State avers that it was in their interest to pursue their case all the way to the Supreme Court of Mali to obtain satisfaction. It avers that having failed to pursue the remedy before the Supreme Court, the Applicants cannot hold the Respondent State accountable for violating their right to justice.
47. The Respondent state further explains that the group of L.T.A. Mali S.A. workers comprising Mamadou Dabo and twenty-five (25) others filed a suit before the Bamako Commune II district Civil Court on 1 November 2016 seeking payment of their claims. The said suit was decided by Judgment No. 45 of 5 April 2017 by which the said court declined jurisdiction and the Applicants did not pursue their case any further.
48. The Respondent state avers that on 9 February 2018, the Applicants appealed the Labour Court's Judgment No. 09 of 22 January 2018 before the Bamako Appeal Court, that is, after filing their Application before this Court on 21 August 2017. The Application is therefore inadmissible for failure to exhaust local remedies.
49. The Respondent State also contends that the Applicants' reluctance to challenge the decisions⁵ of the Regional Director of Labour Office in Kayes before domestic administrative courts proves beyond doubt that they did not exhaust all local remedies available to them before seizing this Court.
50. The Respondent State further avers that all cases brought so far before domestic courts have been tried without undue delay. All cases filed since 2013 have been decided within two (2) years or

5 Reference No. 0263/DRT-K of 13 July 2012 and 0348/DRT-K of 24 August 2012.

less. However, most of the said proceedings have ended at the level of first instance only. The case brought by Ismaila TRAORÉ and others before the Kayes Labour Court in 2013 was decided by Judgment No. 15 delivered on 24 June 2013. The second case, which was brought by FENAME before the Bamako Labour Court, was initiated on 25 March 2014 and was decided by the said court by Judgment No. 154 of 2 June 2014.

51. The third case, filed by Mamadou DABO and twenty-five (25) others before the Civil Court of Bamako Commune II, commenced on 1 November 2016 and was decided by the said court by Judgment No. 145 of 5 April 2017. The fourth application was filed on 10 January 2018 before the President of the Labour Court of Bamako by Mamadou Dabo and twenty-five (25) others seeking an enforcement order in respect of the Arbitration Council's award decision. The President of the Court ruled on the matter by dismissing the application on 22 January 2018, only a few days after it was filed.
52. The Respondent State argues that the trade union leaders, who claim to have been unjustly dismissed, have not brought any case for the purpose of proving their claims of arbitrary dismissal and seeking reinstatement into their company in accordance with the provisions of Article L 277⁶ of the Labour Code. On the contrary, they preferred to submit claims for payment of sums of money and sought a court decision making the decision of the Arbitration Council enforceable.
53. Finally, the Respondent State affirms that the voluntary reluctance of the Applicants to take any legal action before the national judicial bodies responsible for administrative disputes against the decisions⁷ of the Regional Director of Labour in Kayes confirms

6 Article L.277: The authorisation of the labour inspector is required before any dismissal of a staff delegate, permanent or substitute, envisaged by the employer or his representative.

The employer and the staff representative concerned must be notified of the authorisation of dismissal, or the refusal of such authorisation.

If the labour inspector does not respond within 15 days of the application being made, this is considered to be authorisation for the dismissal.

Any dismissal that occurs in violation of the procedure provided for in the previous paragraph shall be automatically null and void and the delegate shall be reinstated in his rights and reinstated in the company.

However, in the event of gross misconduct, the employer may immediately order the temporary lay-off of the person concerned pending the final decision. In the event of a refusal to authorise dismissal, the lay-off shall be without effect.

The above provisions shall apply to workers who are candidates for the office of delegate during the period between the date of posting of the lists and the date of the ballot, as well as to delegates elected until the date of the new elections and for a period of six months following the expiry of the delegate's mandate.

7 Reference No. 0263/DRT-K of 13 July 2012 and 0348/DRT-K of 24 August 2012.

without any doubt that all local remedies available to them were not exhausted before seizing this Court.

54. In response, the Applicants submit that, local remedies are unavailable and ineffective since at the time of initiating the procedure, the laws of Mali had no provision for a court vested with jurisdiction to enforce arbitral awards arising out of collective labour disputes. The arbitration award was revoked after it was rejected by Cabinet, the only body empowered to make the decision enforceable.
55. They aver however that, even after pursuing this remedy, they brought a case before the Labour Court of Bamako seeking to make the said arbitral award enforceable. The case was dismissed. The Applicants assert that there was no legal remedy to their situation. The Applicants appealed the decision of the Labour Court of Bamako before the Bamako Appeal Court more than eight months ago, a procedure that is still pending.

56. The Court notes that, in accordance with Article 56(5) of the Charter, which essentially restates Rule 50(2)(e) of the Rules, applications submitted to it must meet the requirement of exhaustion of local remedies. The rule of exhaustion of local remedies aims to give States the possibility to address human rights violations within their national jurisdiction before resorting to an international human rights body to determine State responsibility in this regard.⁸
57. The Court recalls that the local remedies to be exhausted are ordinary remedies, unless it is clear that they are unduly prolonged. It is, therefore, for the Court to consider whether, in the present

8 ACtHPR, Application 006/2012, *African Commission on Human and Peoples' Rights v Republic of Kenya*, Judgment of 26 May 2017 (merits), §§ 93-94.

Application, the Applicants exhausted local remedies.

58. From the records, the Court notes that the Applicants filed proceedings before the courts of the Respondent State in three groups:
59. As for FENAME, the first group, it filed a lawsuit on 25 March 2014 against LTA-Mali S.A. seeking the enforcement of the arbitral award. On 2 June 2014 the Court rendered its judgment, dismissing the case for lack of jurisdiction due to the collective nature of the dispute and the fact that LTA-Mali S.A. filed a statement of opposition in respect of the arbitration decision on 1 February 2013, which makes the award pending.
60. In respect of the second group of workers, Ismaila TRAORÉ and twelve (12) other workers, brought a case against LTA-Mali S.A. before the Kayes Labour Court. The Labour Court in its Judgment No. 015 of 24 June 2013 dismissed their claims for lack of jurisdiction.
61. On 1 November 2016, the third group comprising Mamadou DABO and twenty-five (25) others filed a case with the Civil Court of Bamako Commune II district claiming the amounts awarded by the Arbitration Council. In its Judgment No. 145 of 5 April 2017, the Civil Court dismissed their claims for lack of jurisdiction. The same group of workers, Mamadou DABO, and twenty-five (25) others, brought the case back before the Labour Court of Bamako seeking to make the decision of the Arbitration Council enforceable. On 22 January 2018 and by Order No. 09, the President of the said Court issued an order dismissing the case. On 9 February 2018, the workers appealed the ruling before Bamako Court of Appeal which had still not delivered its judgment after the filing of the Application before this Court.
62. The Court notes that on 1 February 2013, LTA-Mali S.A. notified the Clerk of the Arbitral Council of its opposition, to the implementation of the Arbitration Council Decision No. 001/C.A of 7 January 2013, within the statutory time limits, making the award pending in accordance with Article 229 of the Labour Law of Mali No. 92-020 of 23 September 1992.⁹
63. The Court also notes that the Respondent State promulgated Law No. 021-2017 of 12 June 2017 amending Law No. 92-020 of 23

9 Article 229: The decision of the Arbitration Council shall be immediately notified and commented upon to the parties by the chairperson of the Arbitration Council. If, within eight clear days following this notification to the parties, none of them has expressed opposition, the decision shall become enforceable. In the case of disputes concerning essential services, the interruption of which could endanger the life, safety or health of persons, jeopardize the normal functioning of the national economy, or concern a vital sector of the professions, the Minister in

September 1992 on the Labour Code of Mali amending Article 229,¹⁰ which grants appeal against the decision of the Arbitration Council before the Social Chamber of the Supreme Court for abuse of authority, violation of the law or violation of procedural rules. This article also spelt out the cases where arbitral awards can be annulled. The Law was published in the Official Gazette of the Respondent State on the same date, that is, before the instant Application was filed by the Applicants on 25 September 2017.

64. The Court notes that the Applicants filed their Application before this Court on 25 September 2017, that is, after the new law came into force. It follows that the Applicants did not exhaust local remedies.
65. The Court, therefore, finds that the Application does not meet the admissibility requirement under Rule 50(2) of the Rules and Article 56(5) of the Charter. Accordingly, it upholds the Respondent State's objection and consequently declares the Application inadmissible.

B. Other admissibility requirements

66. Having found that the Application does not meet the requirement of Rule 50(2)(f) of the Rules, and since the admissibility requirements are cumulative,¹¹ the Court needs not rule on

charge of Labour, in the event of disagreement by one or both parties, shall bring the dispute before Cabinet, which may declare the decision of the Arbitration Council enforceable.

10 Article L.229, new: The Arbitration Council shall have a period of 15 days to make its award. The Council's decision is immediately notified and commented on to the parties by the Chairman, who sends a copy to the Minister of Labour. The Council's decision shall be declared enforceable by order of the President of the competent court, at the request of the earliest party. The arbitration award may only be appealed against on the grounds of misuse of power, violation of the law or violation of the rules of procedure, before the Social Division of the Supreme Court. Recourse for annulment of the arbitration award is available: if the arbitration council was irregularly constituted; if the arbitrator ruled without complying with the mission assigned to him or her; if he or she violated a rule of public order; when the principle of adversarial debate was not respected. The appeal must be exercised within 8 clear days following the notification of the award. It suspends the enforcement of the arbitral award. In case of annulment of all or part of the arbitration award, the Supreme Court, within 3 clear days following the date of referral by the most diligent party, shall refer the case to the parties who shall propose to the Minister in charge of labour the constitution of a new arbitration council. In the event that the new award is annulled, the Supreme Court shall, within 15 days following the second annulment decision, issue an award with the same powers as an arbitrator, which may not be appealed.

11 *Mariam Kouma and Ousmane Diabaté v Republic of Mali* (Jurisdiction and admissibility) (21 March 2018) 2 AfCLR 237, § 63; *Rutabingwa Chrysanthé 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.

whether the Application is compatible with other admissibility requirements under Rule 50(2)(a), (b), (c), (d), (f) and (g) of the Rules.¹²

VII. Costs

- 67. The Applicants pray the Court to order the Respondent state to bear all costs.
- 68. The Respondent State prays the Court to order the Applicants to bear all costs.

- 69. The Court notes that Rule 32(2) of its Rules¹³ provides that “unless otherwise decided by the Court, each party shall bear its own costs, if any.”
- 70. Given the circumstances of this case, the Court decides that each Party shall bear its own costs.

VIII. Operative part

71. For these reasons,

The Court

Unanimously,

On jurisdiction

- i. *Declares* that it has jurisdiction.

On admissibility

- ii. *Upholds* the Respondent State’s objection based on non-exhaustion of local remedies;
- iii. *Declares* the Application inadmissible.

On costs

- iv. *Orders* that each party shall bear its own costs.

12 *Ibid.*

13 Rule 30(2) of the Rules of 2 June 2010.