

Yayi v Benin (striking out) (2022) 6 AfCLR 783

Application 023/2019, *Thomas Boni Yayi v Republic of Benin*

Order, 22 September 2022. 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, a citizen, and former President of the Respondent State brought this Application alleging that in its response to demonstrations that took place in that State, the Respondent State violated some of his human rights. After his request for provisional measures was dismissed and parties had filed their pleadings, the Applicant requested for a discontinuance of the Application. The Court granted the request and ordered that the Application be struck out.

Procedure (discontinuance, 12-13)

I. The Parties

1. Mr. Thomas Boni Yayi (hereinafter, “the Applicant”) is a former President of the Republic of Benin. He alleges human rights violations in connection with demonstrations that took place on 1 and 2 May 2019 in Cotonou, Benin.
2. The Application is filed against the Republic of Benin (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 to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (hereinafter, “the Protocol”) on 22 August 2014. On 8 February 2016, the Respondent State deposited the Declaration provided for in Article 34(6) of the said Protocol (hereinafter, “the Declaration”) by virtue of which it accepts 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 the instrument of withdrawal of the said Declaration. The Court has ruled that this withdrawal has no effect on pending cases and on new cases filed before the entry into force of the withdrawal, that is, one year after its deposit, which is on 26

March 2021.¹

II. Subject of the Application

A. Facts of the matter

3. It emerges from the Application, that, on the night of 1 to 2 May 2019, during an electric power outage, several detachments of soldiers fired live ammunition at the crowd gathered in front of the Applicant's home in response to rumours that the latter had been arrested. The Applicant affirms that the gun shots resulted in several casualties. The soldiers arrested several people and erected barricades in the neighbourhood, thereby refusing his relatives, political friends, his doctor and his lawyer access to his home.
4. The Applicant further affirms that whereas, legal proceedings were initiated against him and the persons arrested for participating in an unarmed gathering likely to disturb the public peace, calling for and inciting hate and rebellion, violence, obstruction of justice or charlatanism, no investigation was opened against the security forces to ascertain who fired the live ammunition.
5. The Applicant concludes that the events of 1 and 2 May 2019 and the judicial proceedings initiated in relation to these events constitute massive human rights violations.

B. Alleged violations

6. The Applicant alleges violation of his rights protected by Articles 4, 6, 7(1)(d) and 26 of the Charter, Article 1(l) of the ECOWAS Protocol on Democracy and Good Governance, Article 9 of the International Covenant on Civil and Political Rights, Articles 9 and 10 of the Universal Declaration of Human Rights and Article 1 of the United Nations Convention against Torture.

III. Summary of the Procedure before the Court

7. The Application was filed on 11 June 2019 together with a request for provisional measures. On 25 June 2019, the Application and the request for provisional measures were served on the

¹ *Houngue Eric Noudehouenou v Republic of Benin*, ACTHPR, Application No 003/2020, Order of 5 May 2020 (provisional measures), §§ 4-5 and corrigendum of 29 July 2020.

Respondent State for Responses thereto within sixty (60) days and fifteen (15) days, respectively.

8. On 8 August 2019, the Court issued an Order dismissing the request for provisional measures and this was served on the Parties on 20 August 2019.
9. The Parties filed their submissions on the merits and on reparations within the prescribed time limits.
10. On 22 June 2022, the Applicant requested the discontinuance of the proceedings and notified the Court of his intention not to pursue the Application. This request was notified to the Respondent State on 18 July 2022 for its observations, if any, within fifteen (15) days of receipt. The Respondent State did not file any observations.

IV. Discontinuance of the Application

11. The Court notes that Rule 65(1) of the Rules provides:
 1. The Court may, at any stage of the proceedings, decide to strike applications from its cause list where:
 - a. An Applicant notifies the Court of his/her intention not to proceed with the case;
 - b. An Applicant fails to pursue his case within the time limit provided by the Court;
 - c. It, for any other reason, concludes that it is no longer justified to continue with the examination of the Application.
12. The Court recalls that on 22 June 2022, the Applicant requested the discontinuance of the proceedings and notified the Court of his intention not to pursue the Application. Moreover, the Respondent State has not filed observations on the request.
13. Accordingly, the Court grants the Applicant's request for discontinuance and, pursuant to Rule 65(1)(a) of the Rules, it finds that further consideration of the Application is no longer warranted. The Court therefore decides to strike it out of its cause list.
14. The Court notes that the striking out of the Application does not affect the right of the Applicant to request for the restoration of the Application, pursuant to Rule 65(3) of the Rules.

V. Operative part

15. For these reasons,

The Court

Unanimously,

- i. *Strikes out* Application No 023/2019 – *Thomas Boni Yayi v Republic of Benin* – from its cause list.