

Actions pour la Protection des Droits de l'Homme (APDH) v Côte d'Ivoire (interpretation) (2017) 2 AfCLR 141

Application, 003/2017, *Actions pour la Protection des Droits de l'Homme (APDH) v Republic of Côte d'Ivoire*

Judgment, 28 September 2017. Done in English and French, the French text being authoritative.

Judges: KIOKO, NIYUNGEKO, GUISSÉ, BEN ACHOUR, BOSSA, MATUSSE, MENGUE, MUKAMULISA, CHIZUMILA and BENSAOULA

Recused under Article 22: ORE

Request for interpretation of judgment of the Court on the merits of a case involving independence and impartiality regarding the composition of the Independent Electoral Commission. The Court declared the request inadmissible as it did not intend to clarify the operative provisions of the judgment.

Admissibility (need to specify the sections of operative part, 15; request for interpretation 18, 19)

I. Procedure

1. The Republic of Côte d'Ivoire filed before this Court by virtue of Article 28(4) of the Protocol and Rule 66(1) of the Rules, an Application for Interpretation of the Judgment delivered by the Court on 18 November 2016 in the afore-mentioned Matter.
2. The Application dated 4 May 2017 was received at the Court's Registry on the same date and on 8 May 2017 was transmitted to APDH for possible observations.
3. On 19 June 2017, APDH filed its observations which were transmitted to the Republic of Côte d'Ivoire by a notice of the same date.
4. At its 46th Ordinary Session held from 4 to 22 September 2017, the Court, pursuant to Rule 59(1) of the Rules decided to close the written procedure.
5. The Court did not deem it necessary to hold a public hearing.

II. Application for interpretation

6. As stated above, the instant Application for Interpretation concerns the Court's Judgment of 18 November 2016 in the Matter of *APDH v Republic of Côte d'Ivoire* (Application 001/2014), the operative provisions of which read as follows:

"The Court,

- (5) *Rules* that the Respondent State has violated its obligation to establish an independent and impartial electoral body as provided under Article 17 of the African Charter on Democracy and Article 3 of the ECOWAS Democracy Protocol, and consequently, also violated its obligation to protect the right of the citizens to participate freely in the management of the public affairs of their country guaranteed by Article 13(1) and (2) of the African Charter on Human and Peoples' Rights;
- (6) *Rules* that the Respondent State has violated its obligation to protect the right to equal protection of the law guaranteed by Article 10(3) of the African Charter on Democracy, Article 3(2) of the African Charter on Human and Peoples' Rights and Article 26 of the International Covenant on Civil and Political Rights;
- (7) *Orders* the Respondent State to amend Law No. 2014-335 of 18 June 2014 on the Independent Electoral Commission to make it compliant with the aforementioned instruments to which it is a Party;
- (8) *Orders* the Respondent State to submit to it a report on the implementation of this decision within a reasonable time which, in any case, should not exceed one year from the date of publication of this Judgment"

7. In its Application for interpretation, the Republic of Côte d'Ivoire prayed the Court to provide answers to the following three questions:

- (i) For the purposes of implementing the Judgment, the State of Côte d'Ivoire prays the Court to avail it of more specific indications on the nomenclature of the new IEC especially with regard to its organization, background, mode of appointment of its members and distribution of the seats.
- (ii) The State would also like to know whether or not the possibility of submitting the Electoral Law for control by a constitutional Judge can help guarantee the independence and impartiality of its members.
- (iii) If yes, the Court may wish to accept to further enlighten the Ivorian authorities on the notion "laws relating to public freedoms."

8. The APDH submits that none of the three issues raised by the Republic of Côte d'Ivoire calls for the interpretation of the afore-said Judgment. It therefore prays the Court to declare the Application inadmissible.

III. Jurisdiction of the court

9. As indicated above, the instant Application for interpretation concerns the Judgment rendered by the Court on 18 November 2016

10. Article 28(4) of the Protocol provides that: "... the Court may interpret its own decision".

11. The Court consequently holds that it has the jurisdiction to interpret this judgment

IV. Admissibility of the Application

12. As regards admissibility of the Application, Rules 66(1) and (2) of the Rules stipulates as follows:

- “1. Pursuant to [a]rticle 28(4) of the Protocol, any party may, for the purpose of executing a judgment, apply to the Court for interpretation of the judgment within twelve months from the date the judgment was delivered, unless the Court, in the interest of justice, decides otherwise.
2. The application shall be filed in the Registry. It shall state clearly the point or points in the operative provisions of the judgment on which interpretation is required “.

13. It is apparent from the content of the foregoing provision that a request for interpretation of a Judgment may be declared admissible only where the three following conditions have been met:

- “a. the request has been filed within twelve (12) months from the date the Judgment was delivered
- b. the request states clearly the point or points in the operative provisions on which interpretation is required, and
- c. the objective is to facilitate implementation of the Judgment.”

14. Given that the judgment was delivered on 18 November 2016, the Court notes that the Republic of Côte d'Ivoire has complied with the statutory 12 months' timeframe prescribed for submission of a request for interpretation.

15. As regards the second condition, the Republic of Côte d'Ivoire merely states that it seeks to interpret the Judgment without specifying the point(s) of the operative provisions of the Judgment of which interpretation is requested.

16. The Court also notes, with regard to the finality of the instant Application, that although the first question seems to relate to the aforementioned paragraph 7 of the operative provisions of the Judgment, it is not intended to clarify the meaning of this point. Rather, it seeks the Court's opinion as to how to implement this point, which, in the Court's view, is the responsibility of the State of Côte d'Ivoire.

17. As regards the other two questions posed by the Republic of Côte d'Ivoire, the Court notes that they do not relate to any of the operative provisions of the Judgment of which interpretation is requested.

18. In view of the foregoing, the Court holds in conclusion that

none of the three questions posed by the Republic of Côte d'Ivoire is intended to clarify the meaning or scope of any point in the operative provisions of the afore-mentioned Judgment delivered by the Court on 18 November 2016.

19. The Court accordingly finds that, although the instant Application for interpretation was filed within the 12-month time limit prescribed in the Rules, it does not meet the other admissibility conditions set forth in Rules 66(1) and (2) of the Rules and must therefore be declared inadmissible.

V. Costs

20. In terms of Rule 30 of the Rules, “unless otherwise decided by the Court, each party shall bear its own costs”.

21. Taking into account the circumstances of this matter the Court decides that each party should bear its own costs

22. For these reasons,
The Court,
Unanimously:

- i. *Declares* that it has jurisdiction to hear the present Application.
- ii. *Declares* that the Application is inadmissible.
- iii. *Rules* that each Party shall bear its own Costs.