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

THE MATTER OF

GLORY CYRIAQUE HOSSOU

V.

REPUBLIC OF BENIN

APPLICATION NO. 012/2018

JUDGMENT

13 NOVEMBER 2024

TABLE OF CONTENTS

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

The Matter of:

Glory Cyriaque HOSSOU

Self-represented,

Versus

REPUBLIC OF BENIN

Represented by

i) Mr Iréné ACLOMBESSI, Judicial Officer of the Treasury,

ii) Mrs Olga Nouatin Sedogbo, Head of the Litigation Management Office at the Judicial Agency of the Treasury,

After deliberation,

Renders the following Judgment:

I. THE PARTIES

1. Mr Glory Cyriaque HOSSOU (hereinafter referred to as "the Applicant "), is a national of Benin. He alleges that the provisions of Law No. 2002-07 of 24 August 2004 on the Individual and Family Code of Benin violate the right to equality between men and women insofar as they confer on only the father, the right to give his surname to the child, thus excluding the mother's.

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 provided for in Article 34(6) of the Protocol (hereinafter referred to as "the Declaration") by virtue of 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 (hereinafter referred to as "the AU Commission") an instrument of withdrawal of the said Declaration. The Court has held that the withdrawal has no bearing on pending cases and new cases filed before the withdrawal came into effect which was on 26 March 2021.[1]

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application that the Respondent State's parliament adopted the Law of 24 August 2004 on the Individual and Family Code of Benin (herein after referred to as, "the Law of 24 August 2024"). According to the Applicant, Article 6(1)(3) and (4) of the said Law contravenes the instruments for protection of women's rights ratified by the Respondent State.

4. The Applicant avers that on 18 December 2017, he lodged a petition with the Constitutional Court of the Respondent State challenging the

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

constitutionality of the above-mentioned article. Furthermore, that the Constitutional Court declared his petition inadmissible by decision DCC 18-022 of 1 February 2018 (hereinafter referred to as “the decision of 1 February 2018”), on the grounds that the Law of 24 August 2004 had already been declared constitutional by decision DCC 04-2004 of 20 August 2004.

5. It emerges, from the record, that the Law of 24 August 2004, was amended and supplemented by Law No. 2021-13 of 20 December 2021 (hereinafter referred to as “the Law of 20 December 2021”), after the latter was declared constitutional by decision DCC 21-321 of 10 December 2021 of the Respondent State’s Constitutional Court.

B. Alleged violations

6. The Applicant alleges that Article 6(1)(3) and (4) of the Law of 24 August 2004 violates the right to equality between men and women, protected by Articles 3 and 18(3) of the Charter, Article 2 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), Article 3 of the International Covenant on Civil and Political Rights (ICCPR), and Articles 2 and 16(1) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

III. SUMMARY OF THE PROCEEDURE BEFORE THE COURT

7. The Application was filed at the Registry on 10 May 2018. On 22 June 2018, it was served on the Respondent State with a request to file its Response within 60 days of receipt.

8. On 23 July 2018, the Respondent State informed the Registry that some pages of the Application were missing. On 3 August 2018, the complete

application was served on the Respondent State with a request to file its Response within a new time-limit of 60 days.

9. On 4 October 2018, the Respondent State filed its response and this was served on the Applicant for him to file a Reply within 30 days of receipt. On 18 November 2018, the Applicant filed his Reply, which was transmitted to the Respondent State. On 5 February 2019, the Respondent State informed the Registry that it did not intend to reply

10. On 25 July 2023, the Applicant transmitted a copy of Law 2021-13 of 20 December 2021 amending and supplementing Law No. 2002-07 of 24 August 2004 on the Individual and Family Code in the Republic of Benin (hereinafter the Law of 20 December 2021).

11. On 21 August 2023, the Registry transmitted the Law of 20 December 2021 to the Respondent State for its observations within twenty (20) days. However, the Respondent State did not respond.

12. Pleadings were closed on 26 February 2024 and the Parties were duly notified.

IV. PRAYERS OF THE PARTIES

13. The Applicant prays the Court to:

    i. Find that the decisions of the Respondent State's Constitutional Court are not binding on the Court, as the Court was established by an international instrument that is superior to domestic laws;
    ii. Consequently, find the Application admissible;
    iii. Find that Article 6 of the Individual and Family Code violates the principle of equality between men and women as established by the Charter, the Maputo Protocol, the CEDAW and the ICCPR;

iv. Order the Respondent State to amend its legislation on the protection and advancement of women, in particular, Article 6 of Law 2002-07 of 24 August 2004 on the Individual and Family Code, in order to restore the rights of Beninese women;

v. Order the Respondent State to pay him various expenses occasioned by this litigation, which began on 18 December 2017, in particular those relating to :

- Traveling from the town of Sémé-Kpodji in the Ouémé Region to the Constitutional Court and to the UPS mail transfer office, both located in Cotonou;
- Costs in respect of research and of consulting resource persons in connection with the drafting of submissions ;
- Travel expenses from Cotonou to Arusha and from Arusha to Cotonou if the Court schedules a hearing in respect of the case;
- Costs in respect of accommodation in Arusha during the trial ;

14. On its part, the Respondent State prays the Court to:

i. Find that the Constitutional Court has twice reviewed the constitutionality of the Individual and Family Code;
ii. Find that the Constitutional Court has already declared all its provisions to be constitutional;
iii. Find that the decisions of the Constitutional Court are not subject to appeal;
iv. Accordingly, hold that the Application is inadmissible;
v. Acknowledge that a child is entitled to one or more first names but only one surname;
vi. Find that the choice of surname is a function of the established social order in each country;
vii. Find that parentage is patrilineal in the Respondent State;
viii. Find that this filiation does not violate the rights of women;
ix. Consequently, dismiss the action brought by the Applicant.

V. JURISDICTION

15. Article 3 of the Protocol provides that:

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 instruments ratified by the State concerned.
2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

16. Furthermore, under Rule 49(1) of the Rules of Court[2], "The Court shall conduct a preliminary examination of its jurisdiction (…) in accordance with the Charter, the Protocol and these Rules."

17. Based on the above-cited provisions, the Court, in each case, must conduct a preliminary assessment of its jurisdiction and dispose of objections thereto, if any.

18. The Court notes in the instant case that the Respondent State raises an objection to its material jurisdiction. The Court will rule thereon (A) before considering the other aspects of its jurisdiction, if necessary (B).

A. Objection to the Court's personal jurisdiction

19. The Respondent State contends that the provisions of Article 6(1)(3) and (4) of the Law of 24 August 2004 were declared constitutional by the decision of 20 August 2004 of the Constitutional Court and that the said decision is final. In its view, by invoking the same grievance in the present application, the Applicant is in fact requesting the Court to sit as an appellate court in respect of the decisions handed down by its Constitutional Court. It argues that this Court cannot hear the present application insofar as it is not an appellate court in respect of the decisions of the Respondent State's Constitutional Court.

[2] Article 39(1) of the Rules Court of 2 June 2010.

20. The Applicant submits that this objection should be dismissed, arguing that he is not appealing the Constitutional Court's decision. He explains that he is rather requesting this Court to find a breach of the principle of equality between men and women guaranteed by the international instruments ratified by the Respondent State, including the Charter, which forms an integral part of its Constitution.

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21. The Court observes, in line with its jurisprudence, that it has material jurisdiction to entertain any application provided that alleged violations are of human rights protected by the Charter or any other relevant international instrument to which the Respondent State is a party.[3] In *Armand Guéhi v. United Republic of Tanzania*, the Court held: "[o]n the objection that it is called upon to act as a court of first instance, [the Court notes that], in accordance with Article 3 of the Protocol, it has material jurisdiction insofar as the application alleges a violation of the provisions of international instruments to which the Respondent State is a party".[4]

22. In the present case, the Court notes that the allegations made in the Application relate to the violation of rights protected by the Charter and other international human rights instruments. This is because the Applicant alleges that the provisions of Article 6(1)(3) and (4) of the Law of 24 August 2004 violate Articles 3 and 18(3) of the Charter, Article 2 of the Maputo Protocol[5], Article 3 of the ICCPR[6], and Articles 2 and 16(1) of CEDAW[7], human rights instruments ratified by the Respondent State, which it is empowered to apply in accordance with Article 3 of the Protocol.

[3] *Kenedy Ivan v. United Republic of Tanzania* (merits and reparations) (28 March 2019) 3 AfCLR 48, §§ 20-21; *Nguza Viking (Babu Seya) and Johnson Nguza (Papi Kocha)* v. *United Republic of Tanzania* (merits) (23 March 2018) 2 AfCLR 287, § 36.
[4] *Armand Guehi v. United Republic of Tanzania* (merits and reparations) (7 December 2018) 2 AfCLR 477, § 31.
[5] The Respondent State ratified the Protocol on the Rights of Women in Africa on 28 January 2005.
[6] The Respondent State ratified the ICCPR on 12 March 1992.
[7] The Respondent State ratified the CEDAW on 12 March 1992.

23. The Court thus reiterates its jurisprudence that while it is certainly not an appellate body for the decisions of the Respondent State's domestic courts, including its Constitutional Court, it has jurisdiction to ascertain compliance with international human rights standards by the said courts. The Court, therefore, finds that if it were to examine the Applicant's allegations in the present case, it would not be ruling as an appellate court reviewing the Constitutional Court's decision, but within the remit of its own material jurisdiction.

24. The Court, therefore, dismisses the Respondent State's objection to its material jurisdiction and holds that it has material jurisdiction to hear the instant Application.

B. Other aspects of jurisdiction

25. The Court notes that the other aspects of its jurisdiction are not in dispute. Nonetheless, in line with Rule 49(1) of the Rules, the Court must satisfy itself that all aspects of its jurisdiction are fulfilled before considering the Application.

26. As regards its personal jurisdiction, the Court notes that the Respondent State is a Party to the Charter and the Protocol, and has deposited the Declaration. The Court recalls, as indicated in paragraph 2 of this Judgment, that on 25 March 2020, the Respondent State deposited the instrument of withdrawal of the Declaration. In this respect, the Court reiterates its position that the withdrawal of the Declaration has no retroactive effect and has no bearing on cases filed before the deposit of the instrument of withdrawal or on new cases filed before the withdrawal comes into effect. Given that the said withdrawal of the Declaration took effect one year after the deposit of the instrument thereof, in this case on 26 March 2021, it has no impact on the present Application, which was filed on 10 May 2018. In the circumstances, the Court holds that it has personal jurisdiction.

27. As regards temporal jurisdiction, the Court holds that the relevant dates, in relation to the Respondent State, are 22 August 2014 when the Protocol took effect, and 8 February 2016 when the Declaration was deposited.

28. The Court notes that the violations alleged by the Applicant relate to the law adopted on 24 August 2004, that is, before the Respondent State became a party to the Protocol and deposited the Declaration.

29. However, the Court notes that the Law of 24 August 2004 was still in force when the Application was filed. It, therefore, observes that the violations continued after the Respondent State became a Party to the Protocol and deposited its Declaration[8]. The Court, therefore, holds that it has temporal jurisdiction.

30. Finally, as regards territorial jurisdiction, the Court finds that it has jurisdiction as the facts of the case and the alleged violations took place in the Respondent State's territory.

31. Consequently, the Court holds that it has jurisdiction to consider the instant Application.

VI. ADMISSIBILITY

32. Under Article 6(2) of the Protocol "The Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter".

[8] *Jebra Kambole v. United Republic of Tanzania* (judgment) (15 July 2020) 4 AfCLR 460, §§ 51-53; *Bob Chacha Wengue and others v. United Republic of Tanzania*, ACtHPR, Application No. 011/2020, judgment of 13 June 2023, § 35.

33. Under 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, the Protocol and these Rules”.

34. Rule 50(2) of the Rules, which in substance restates Article 56 of the Charter, provides that:

> 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 (hereinafter referred to as “the Constitutive Act”) and with the Charter;
> c) Not contain any disparaging or insulting language towards the State concerned and its institutions or the African Union;
> d) 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) 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 African Union or the provisions of the Charter.

35. The Court notes that there is no contention regarding compliance with the conditions set out in Rule 50(2) of the Rules. Nevertheless, the Court must satisfy itself that these requirements have been fulfilled.

36. In this regard, the Court notes that the condition set out in Rule 50(2)(a) has been fulfilled as the Applicant has clearly indicated his identity.

37. The Court notes that the application seeks to protect the Applicant's rights guaranteed by the Charter. It further notes that one of the objectives of the Constitutive Act of the African Union, as stated in Article 3(h) thereof, is the promotion and protection of human and peoples' rights. Furthermore, the application does not contain any request that is incompatible with the Constitutive Act of the African Union. The Court, therefore, holds that the application is compatible with the Constitutive Act of the African Union and the Charter, and meets the requirement of Rule 50(2)(b) of the Rules.

38. The Court further observes that the application does not contain any disparaging or insulting language with regard to the Respondent State, its institutions or the African Union, which makes it consistent with the requirement of Rule 50(2)(c) of the Rules.

39. The Court notes, moreover, that the application is not based exclusively on news disseminated by the mass media but on the law of 24 August 2004 of the Respondent State. The requirements of Rule 50(2)(d) of the Rules are therefore met.

40. The Court recalls in accordance with Rule 50(2)(e) of the Rules, that, applications must be filed after exhaustion of local remedies, if any, unless it is clear that the procedure in respect of such remedies is unduly prolonged.

41. The Court notes that the requirement of exhaustion of local remedies prior to bringing a case before an international human rights court is an internationally recognised and accepted rule.[9] The Court recalls, in line with its established jurisprudence, that the local remedies to be exhausted must be available, effective and sufficient.[10]

[9] *Yacouba Traoré v. Republic of Mali*, ACtHPR, Application No. 010/2018, Ruling of 25 September 2020 (jurisdiction and admissibility), § 39.
[10] *Beneficiaries of late Norbert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo, Blaise Ilboudo and Mouvement Burkinabé des Droits de l'Homme et des V. Peuples, v. Burkina Faso* (merits) (28 March 2014) 1 AfCLR 219, § 68; *Lohé Issa Konaté v. Burkina Faso* (merits) (5 December 2014) 1 AfCLR 314,

42. The Court notes that the Respondent State's Constitutional Court has jurisdiction to hear allegations of human rights violations[11] and it has consistently held that the remedy before the Respondent State's Constitutional Court is available, effective and sufficient.[12]

43. The Court notes that in the present case, on 18 December 2017, the Applicant filed a petition with the Constitutional Court challenging the constitutionality of Article 6(1)(3) and (4) of the Law of 24 August 2004, in which he alleged the violation of the relevant provisions of the Charter, the Maputo Protocol, the ICCPR and the CEDAW, as he does in the instant Application. The petition was declared inadmissible by decision of 1 February 2018. This decision is not subject to appeal in accordance with Article 124(1)[13] of the Respondent State's Constitution.

44. In light of the foregoing, the Court holds that the Applicant exhausted local remedies and the application meets the requirements of Rule 50(2)(e) of the Rules.

45. With regard to the requirement under Rule 50(2)(f) of the Rules that an application be filed within a reasonable time, the Court has held that the

§§ 92 and 108; *Sébastien Germain Marie Akoué Ajavon v. Republic of Benin* (merits and reparations) (4 December 2020) 4 AfCLR 133, § 99.

[11] Article 114 of the Constitution of Benin stipulates that: "The Constitutional *Court shall be the highest court of the State in constitutional matters".* It shall be the *judge of the constitutionality of laws and it shall guarantee the fundamental rights of the human person and public freedoms (…)*" Under Article 122 of the Constitution: "Any citizen may complain to the Constitutional Court about the constitutionality of laws, either directly or by raising before a court of law an objection of unconstitutionality with respect to a matter which concerns him".
Article 22. Law No. 91-009 of 4 March 1991 amended by the Law of 31 May 2001 "Similarly, laws and regulatory acts alleged to infringe fundamental human rights and public freedoms, and in general, on the violation of human rights, are referred to the Constitutional Court either by the President of the Republic, or by any citizen, association or non-governmental organisation for the defence of human rights. See, in the same vein, *Houngue Éric Noudehouenou v. Republic of Benin*, ACtHPR, Application No. 028/2020, Judgment of 1 December 2022 (merits and remedies), § 50.

[12] *Mama Seydou Samiratou v. Republic of Benin*, ACtHPR, Application No. 054/2019, Judgment of 5 September 2023, § 45; *Laurent Mètognon and others v. Republic of Benin*, ACtHPR, Application No. 031/2018, Judgment of 24 March 2022, § 63.

[13]Article 124(1) of the Constitution states: "The decisions of the Constitutional Court are not subject to appeal".

reasonableness of the time for bringing a case before it depends on the particular circumstances of each case and that it must determine this on a case-by-case basis[14]. In the present case, the Court takes the date of the Constitutional Court's decision, that is, 1 February 2018, as the date on which the time limit for bringing a case before it begins to run. Between this date and the date of referral to the Court on 10 May 2018, three months and ten days elapsed. The Court finds that the period of three months and ten days between the exhaustion of local remedies and the filing of the application is manifestly reasonable, within the meaning of Rule 50(2)(f) of the Rules.

46. Finally, the Court notes that the present case does not concern a matter that has already been settled by the Parties in accordance with the principles of the United Nations Charter, the Constitutive Act of the African Union or the provisions of the Charter. The Court declares that the condition set out in Rule 50(2)(g) of the Rules is satisfied.

47. In light of the foregoing, the Court holds that the instant application fulfils all the admissibility requirements under Rule 50(2) of the Rules and, consequently, declares the application admissible.

VII. MERITS

48. The Applicant alleges that the provisions of Article 6(1)(3) and (4)[15] of the Law of 24 August 2004 violate the right to equality between men and women as it provides that only the father can give his surname to the child, thereby excluding that of the mother. He contends that by so legislating, the

[14] Beneficiaries of the late *Norbert Zongo and Others v. Burkina Faso* (preliminary objections) (21 June 2013) 1 AfCLR 197, § 121; *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 73.

[15] Article 6 paragraphs 1, 3 and 4: "A legitimate child bears the surname of its father. ….In the event of simultaneous recognition by both parents, the child bears the father's name. If the father recognises the child in the last position, the child will take his name. However, if the child is over fifteen (15) years of age, his or her consent will be required ..."

Respondent State violated Articles 3 and 18(3) of the Charter, Article 2 of the Maputo Protocol, Article 3 of the ICCPR, and Articles 2 and 16(1) of the CEDAW.

49. The Applicant further contends that even if Article 6 of the Law of 24 August 2004 was amended by the Law of 20 December 2021, this does not resolve all the human rights issues raised in the application. However, he does not specify what other "issues" he refers to, apart from the allegation mentioned above.

50. In response, the Respondent State argues that the choice of surname depends on the social order of each State. It explains that the social, cultural, political and legal order within the family is based on patrilineal filiation, and in such a system, the man, as father, is the repository of authority within the family. Furthermore, that, the preservation of this authority is based on descent through males, and hence the transmission of the patronymic surname through the father. The Respondent State asserts that this traditional mode of transmission was recognised through the law that was duly adopted by the National Assembly as being the expression of the will of the sovereign people.

51. The Respondent State therefore submits that Article 6 of the Law of 24 August 2004 protects the child by ensuring his or her right to a surname, which is consistent with the established social order and does not infringe on the rights of women. The Respondent State did not submit on the amendment law of 20 December 2021.

52. In reply, the Applicant submits that although it is not in dispute that the National Assembly is vicariously the voice of the people, the fact remains that the said Assembly, when drafting laws, must take into account respect for human rights, as provided for and protected by the international instruments ratified by the Respondent State.

53. Lastly, he argues that the application does not seek to challenge patrilineal filiation but to balance the child's filiation with regard to the father and mother which, in his view, was not the case, since Article 6 of the Law of 24 August 2004 implies that women are subordinate to men, whereas women participate in the conception, birth and upbringing of children.

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54. The Court recalls that the Applicant alleges a violation of Articles 3 and 18(3) of the Charter, Article 2 of the Maputo Protocol, Article 3 of the ICCPR, and Articles 2 and 16(1) of the CEDAW, owing to Article 6(1)(3) and (4) of the Law of 24 August 2004,[16] which, in his view, favours men to the detriment of women, as the man is the only one entitled to give the child his surname.

55. The Court notes, in the present case, that on 25 July 2023, the Applicant transmitted to the Registry a copy of Law 2021-13 of December 20, 2021 amending and supplementing Law No. 2002-07 of 24 August 2004 on the Individual and Family Code.

56. The Court observes that Article 6 of the new Law of 30 December 2021, which the Applicant filed, enshrines equality between men and women with regard to the child's surname, as both parents are able to choose the child's surname, which could be the father's surname, the mother's surname or both their surnames as they wish.[17]

[16] This article states that "A legitimate child shall bear the surname of its father... In the event of simultaneous recognition by both parents, the child bears its father's name. If the father is the last to recognize the child last, the child will take its father's name".

[17] The new Article 6 states: "When filiation is established with regard to both parents, under the conditions laid down by the present Code, they shall choose the surname to be given to the child: either the father's surname or the mother's surname, or their two surnames together in the order chosen by them [...].
In the event of disagreement between the father and mother [...], when filiation is established simultaneously, the child takes both their names [...]".

57. The Court thus finds that aim of the Applicant's request that women be granted equal right as men with regard to giving a child's surname has been achieved.

58. Accordingly, the Court holds that the prayer has become moot.

VIII. REPARATIONS

59. The Applicant prays the Court to order the Respondent State to amend Article 6 of the Law of 24 August 2004 to restore the rights of Beninese women.

60. The Respondent State did not make any submissions.

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61. Article 27(1) of the Protocol provides that “if the Court finds that there has been a violation of a human or peoples’ right, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation”.

62. The Court recalls in line with it settled jurisprudence that reparations are only awarded when the Respondent State is found responsible for an internationally wrongful act and a causal link is established between the wrongful act and the alleged harm.[18]

[18] *XYZ v. Republic of Benin* (merits) (27 November 2020) 4 AfCLR 49, § 158; *Sébastien Germain Ajavon v. Republic of Benin* (reparations) (28 November 2019) 3 AfCLR 196, §§ 17 and 69; *Nguza Viking (Babu Seya) and another v. United Republic of Tanzania* (reparations) (8 May 2020), 4 AfCLR 3, § 15; *Amir Ramadhani v. United Republic of Tanzania*, Application No. 010/2015, Judgment of 25 June 2021 (reparations), § 20.

63. In the present case, having found that the Applicant's alleged violation has become moot, the Court finds that there are no grounds for ordering reparations.

IX. COSTS

64. The Applicant prays that the Respondent State be ordered to bear the costs he has incurred in connection with the present proceedings, namely: travel costs from the town of Sème-kpodji in the Ouémé region to the Constitutional Court and to the UPS mail transfer agency in Cotonou, travel costs from Cotonou to Arusha-Cotonou with accommodation in Arusha, connection costs for sending the Application electronically to the Court, costs of research and consultations with resource persons.

65. The Respondent State did not make any submissions

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66. Under Rule 32(2) of the Rules, "Unless otherwise decided by the Court, each party shall bear its own costs, if any".

67. Having found that the Application has become moot, the Court decides that each Party shall bear its own costs.

X. OPERATIVE PART

68. For these reasons,

THE COURT,

Unanimously,

On Jurisdiction

i. *Dismisses* the objection based on material jurisdiction;
ii. *Declares* that it has jurisdiction to hear the Application.

Admissibility

iii. *Declares* the Application admissible.

Merits

By a majority of seven votes for and four against, Judges Suzanne MENGUE, Chafika BENSAOULA, Dennis D. ADJEI and Duncan GASWAGA dissenting:

iv. *Holds* that the Application has become moot.

Reparations

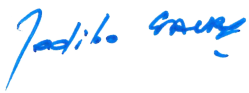
v. *Holds* that there are no grounds to grant reparations*;*

Costs

vi. *Holds* that each Party shall bear its own costs.

Signed by:

Imani ABOUD, President ; 

Modibo SACKO, Vice-President; 

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Chafika BENSAOULA, Judge;

Blaise TCHIKAYA, Judge;

Stella I. ANUKAM, Judge;

Dumisa B. NTSEBEZA, Judge;

Dennis D. ADJEI, Judge;

Duncan GASWAGA, Judge and

Robert ENO, Registrar.

In accordance with Article 28(7) of the Protocol and Rule 70(2) of the Rules, the partial dissenting opinion of *Judges Suzanne MENGUE, Chafika BENSAOULA, Dennis D. ADJEI and Duncan GASWAGA* is appended to this judgment.

Done at Arusha, this Thirteenth Day of November Two Thousand and Twenty-four in French and English, the French text being authoritative.