

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

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

V.

REPUBLIC OF KENYA

APPLICATION No. 006/2012

ORDER
(ADJOURNMENT OF COMPLIANCE HEARING)

12 NOVEMBER 2024



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, Denis D. ADJEI, and Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In the Matter of:

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

represented by

- i. Hon. Solomon DERSSO, Commissioner, African Commission on Human and Peoples' Rights (ACHPR);
- ii. Hon. Commissioner Janet Ramatoulie SALLAH-NJIE, Commissioner and Vice Chairperson, ACHPR;
- iii. Mrs. Abiola IDOWU-OJO, Executive Secretary, ACHPR;
- iv. Ms. Irene Desiree MBENGUE, ACHPR Secretariat;
- v. Mr. Pedro Rosa CO, ACHPR, ACHPR Secretariat;
- vi. Mr. Bahame Tom NYADUNGA, Lead Counsel;
- vii. Mr. Donald DEYA, Counsel;
- viii. Mr. Samuel Ade NDASI, Counsel;
- ix. Mr. Kranti L CHINNAPPA, Counsel; and
- x. Mrs. Emily KINAMA, Counsel

Versus

REPUBLIC OF KENYA

represented by

- i. Mr Charles MUTINDA, Chief State Counsel;
- ii. Mr Chistropher MARWA, Senior State Counsel; and
- iii. Ms Faith Njeri NGUGUNA, Senior State Counsel

After deliberation,

Issues this Order:

I. THE PARTIES

1. The African Commission on Human and Peoples' Rights ("hereinafter referred to as "the Applicant") filed an Application before the Court, on 12 July 2012, pursuant to Article 5(1) of 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").
2. The Application was filed against the Republic of Kenya (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 25 July 2000 and to the Protocol on 4 February 2004. It has not deposited the Declaration required under Article 34(6) of the Protocol (hereinafter referred to as "the Declaration") through which States accept the jurisdiction of the Court to receive cases directly from individuals and Non-Governmental Organisations (NGOs).

II. BACKGROUND

3. On 12 November 2024, the Court convened a public hearing, under Rule 81 of the Rules of Court (hereinafter referred to as "the Rules"), as read with part xv of the operative part of its judgment on reparations of 23 June 2022.
4. In *limine litis*, the Respondent State requested the Court to adjourn the hearing for at least three months to enable it to file a report on the steps that it has taken to comply with the Court's decisions on the merits as well as on reparations.
5. The Applicant opposed the Respondent State's request arguing that the Respondent State had had ample time to file its report from the time the

Notice of Hearing was issued, on 14 August 2024. It also submitted that it was ready to proceed with its submissions and that should the Court be minded to grant the adjournment, costs incurred, in respect of the Applicant's attendance, be borne by the Respondent State. The Applicant also informed the Court that the Respondent State had continued with the eviction of the Ogiek in the Mau Forest even after the Court's decisions in this Application.

6. In its rejoinder, the Respondent State submitted that its failure to file a report was largely due to the changes in its Government. It argued that the filing of a report on implementation would require approval of the highest echelon of its Government. As for costs, the Respondent State prayed that these be in the cause.

III. ON THE ADJOURNMENT

7. The Court notes that under Rule 54(6) of the Rules: "The Court may, of its own motion or on request by a party adjourn any public hearing".
8. The Court further notes that Rule 90 of the Rules provides that: "Nothing in these Rules shall limit or otherwise affect the inherent power of the Court to adopt such procedure or decisions as may be necessary to meet the ends of justice".

9. In light of the submissions of both Parties, and pursuant to Rules 54(6) and 90 of the Rules, the Court:
 - i. *Grants* the Respondent State a period of 90 days, commencing from 12 November 2024, to file its report on the steps taken to implement the Court's decisions in this Application on the merits as well as on reparations. The said report must be filed no later than 11 February 2025.

- ii. *Holds* that the question of the continuing eviction of the Ogiek in the Mau Forest shall be determined during the hearing to be scheduled by the Court;
- iii. *Reserves* its determination on costs;
- iv. *Adjourns* the hearing *sine die*.

Signed:

Iman D ABOUD, President;



and Robert ENO, Registrar.



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

