


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

THE MATTER OF

ALIYU SULEIMAN

v.

THE AFRICAN UNION (AU) AND

THE AFRICAN UNION COMMISSION (AUC)

APPLICATION NO. 014/2024

RULING

12 FEBRUARY 2025



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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, and Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In the Matter of:

Aliyu SULEIMAN

represented by

Prof P.L.O Lumumba, Lumumba and Lumumba Advocates

Versus

THE AFRICAN UNION (AU) AND THE AFRICAN UNION COMMISSION (AUC)

represented by

The Chairperson of the African Union Commission

After deliberation,

Renders this Ruling:

I. THE PARTIES

1. Mr. Aliyu Suleiman (hereinafter referred to as the “Applicant”) is a national of the Federal Republic of Nigeria who claims to be an advocate for social justice. He alleges the violation of the rights of African citizens in relation to the nomination process of the candidates for the position of Chairperson of the African Union Commission.
2. The Application is filed against the African Union (hereinafter referred to as “the AU”) and the African Union Commission (hereinafter referred to as “the AUC”); hereinafter jointly referred to as “the Respondents”. The AU is a continental organisation of African States established under the Constitutive Act of the AU, 2001 (hereinafter referred to as “the Constitutive Act”). The AUC is the Secretariat of the AU established in accordance with the provisions of the Constitutive Act.

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application, that in February 2024, the AU invited all interested Africans to submit their application for the position of Chairperson of the AUC in accordance with the requirements that it had published on its website including, leadership skills and the vision to advance Africa’s transformative Agenda 2063. The Applicant was not one of the candidates but files this case in the public interest, on behalf of all adult Africans.
4. The Applicant avers that the pre-selection process was flawed because the nominated candidates’ qualifications were not vetted and as such, some of them, he alleges, do not meet the requirements for the position of Chairperson of the AUC as published in the AU website.

B. Alleged violations

5. The Applicant alleges *inter alia* the violation of the right of every African adult person to participate freely in their governance, under Article 13 of the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter") and the right of peoples to participate in public affairs, to vote and be elected in genuine periodic election under Article 25 of the International Covenant on Civil and Political Rights (hereinafter referred to as "the ICCPR").

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

6. The Application was filed on 1 October 2024. On 17 October 2024, the Registry informed the Applicant that, as per its jurisprudence, the Court manifestly lacked jurisdiction to consider an Application against the AU and the AUC as they are not State Parties 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").
7. Following further exchanges of correspondence between the Registry and the Applicant, the Application was registered and served on the Respondents on 29 January 2025. However, the Respondents did not file any Response thereto.
8. The Pleadings were closed with effect from 10 February 2025 and the Parties were notified.

IV. JURISDICTION

9. The Applicant avers that this Court has the jurisdiction to determine the Application as per Article 5(3) and 34(6) of the Protocol.

10. The Court recalls that Article 3 of the Protocol provides as follows:
 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 States concerned.
 2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.
11. The Court further recalls that pursuant to Rule 49(1) of the Rules of Court (hereinafter referred to as “Rules”), it “shall conduct [a] preliminary examination of its jurisdiction [...] in accordance with the Charter, the Protocol and these Rules.”
12. In accordance with Article 3 of the Protocol, the jurisdiction of the Court extends to all cases and disputes submitted to it concerning the interpretation and application of ... relevant human rights instruments ratified by the *States concerned*. It also arises from Article 34(6) of the Protocol that applications to be received by the Court under Article 5 of the Protocol, should be filed against *State Parties* to the Protocol. It follows from these provisions that respondents in applications filed before this Court must be State Parties to the Protocol.
13. This interpretation is in accordance with the Court’s jurisprudence in *Femi Falana v. Africa Union* where the Court held that: “as far as an international organization is not a party to a treaty, it cannot be subject to legal obligations arising from that treaty. This is in line with Article 34 of the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations.”¹

¹ *Femi Falana v. African Union* (jurisdiction) (26 June 2012) 1 AfCLR 118, § 70.

14. The Court further emphasizes its finding in the above cited *Falana* Ruling that an application filed against an entity other than a State Party to the Protocol falls outside its jurisdiction.²
15. In the instant case, the Application is filed against the AU and the AUC, which are not State Parties to the Protocol.
16. In view of the above, the Court finds that it manifestly lacks jurisdiction to consider the Application.

V. OPERATIVE PART


17. For these reasons:

THE COURT,

Unanimously,

Holds that it manifestly lacks jurisdiction to consider the Application.

Signed:


Iman D ABOUD, President; 


Modibo SACKO, Vice President; 


Rafaâ BEN ACHOUR, Judge; 

Suzanne MENGUE, Judge; 


² *Falana v. African Union, supra*, § 73.


Tujilane R. CHIZUMILA, Judge; 

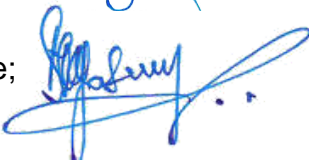
Chafika BENSAOULA, Judge; 


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 Rules 70(1) of the Rules, the Declaration of Justice Rafaâ BEN ACHOUR, and the Joint Separate Opinion of Justices Stella I. ANUKAM and Denis D. ADJEI are appended to this Ruling.

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

