

Procedure

Striking out an application

The Court may strike out an application or request for advisory opinion where the applicant has demonstrated a lack of interest in pursuing the case (*Request for advisory opinion by SERAP*, para 10; *African Commission on Human and Peoples' Rights v Great Socialist People's Libyan Arab Jamahiriya*, application 004/2011, order, 15 March 2013).

The Court does not give its opinion on issues general of international law. Where an applicant requests an advisory opinion of the Court on the provisions of the African Charter or any other international human rights instrument, the applicant must specify the relevant provisions on which it seeks the opinion of the Court in accordance with the Rules of Court. To not do so may warrant the Court to strike out the matter. Similarly, the Court does not relist a matter which it has earlier struck out if the application to relist does not address the issue for which it was previously struck out (*Request for advisory opinion by the Coalition for the International Criminal Court, the Legal Defence & Assistance Project (LEDAP), the Civil Resource Development & Documentation Center (CIRDDOC) and the Women Advocates Documentation Center (WARDC)*, 001/2014, order, 5 June 2015, paras 17 -18).

However, in a dissenting opinion, Judge Ouguergouz was of the view that where the Court considers that a request for advisory opinion has not complied with the Rules of Court, it should be given a purely administrative treatment by a simple letter of rejection by the Registrar rather than by a detailed judicial consideration (*Request for advisory opinion by the Coalition for the International Criminal Court (Dissenting opinion of Judge Ouguergouz)*, para 6). The fact the issues raised by a request bordered on general public international law or the hierarchy of norms in international law does mean they are divorced from human rights: 'the protection of human rights for which this Court is responsible under the Protocol is based on international law and is by definition irrigated by that law' (paras 18 - 19).

Judge Ouguergouz also stated that when considering a request for advisory opinion, it is pertinent for the Court to give proper consideration to both its personal and material jurisdiction and to do so by way of an 'advisory opinion', and not merely by a simple 'order' as it had done in this case. And that by not considering its personal jurisdiction in relation to the four applicants, it had taken the personal jurisdiction issue for granted (paras 23 - 24).