

012/11 National Convention of Teachers Trade Union (CONASYSED) v. Gabon

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

In the Matter of

National Convention of Teachers Trade Union

v.

The Republic of Gabon

Application 012 /2011

Decision

The Court composed of: Sophia A.B. AKUFFO, Vice-President; Jean MUTSINZI, Bernard M. NGOEPE, Modibo T. GUINDO, Fatsah OUGUERGOUZ, Augustino S.L. RAMADHANI, Duncan TAMBALA, Elsie N. THOMPSON, Sylvain ORE - Judges ; and Robert ENO -- Acting Registrar

In the matter of:

National Convention of Teachers Trade Union

v.

The Republic of Gabon

After deliberations,

makes the following decision:

1. By Application dated 3 August 2011, the teachers, trade union leaders of the National Convention of Teachers Trade Union (CONASYSED) domiciled in Libreville, in the Republic of Gabon, seized the Court with a petition against the Republic of Gabon, for violations of trade union rights enshrined in the Universal Declaration of Human Rights and Articles 10 and 15 of the African Charter on Human and Peoples' Rights.
2. Pursuant to the provisions of Rule 34 of the Rules of Court, the Registry, by letter dated 4 August 2011, acknowledged receipt of the Application and registered it as Application No. 012/2011.
3. By letter dated 2 August 2011, the Registry of the Court inquired from the Legal Counsel of the African Union Commission if the Respondent State has made the Declaration required under Article 34(6) of the Protocol establishing the Court.
4. By letter dated 16 August 2011, the Legal Counsel of the African Union Commission informed the Registry that the Republic of Gabon had not yet made the Declaration required under Article 34(6), and forwarded to the Registry the updated list of Member States of the African Union which have ratified the Protocol and made the Declaration.
5. By letter dated 28 October 2011, the Registry inquired from the African Commission on Human and Peoples' Rights (hereinafter called the "Commission") if the Applicant has observer status with the said Commission.
6. By letter dated 1 December 2011, the Registry wrote to CONASYSED to provide the Court with its statutory documents and specify its legal status.
7. By email of 8 December 2011, the African Commission on Human and Peoples' Rights informed the Registry of the Court that CONASYSED does not have observer status with the Commission.
8. The Court notes in the first instance that in terms of Article 5(3) of the Protocol *"The Court may entitle relevant Non-Governmental Organizations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with Article 34(6) of this Protocol"*.

9. The Court notes further that Article 34(6) of the Protocol provides that: *"At the time of the ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under Article 5(3) of this Protocol. The Court shall not receive any petition under Article 5(3) involving a State Party which has not made such a declaration"*.

10. The Court observes that CONASYSED does not have observer status before the Commission and furthermore, the Republic of Gabon has not made the declaration required under Article 34(6).

11. In view of Articles 5(3) and 34 (6) of the Protocol, it is evident that the Court manifestly lacks jurisdiction to receive the Application submitted by CONASYSED against the Republic of Gabon.

12. For these reasons,

THE COURT,
Unanimously:

Decides that pursuant to Articles 5 (3) and 34 (6) of the Protocol, it manifestly lacks jurisdiction to receive the Application submitted by CONASYSED against the Republic of Gabon, and the Application is accordingly struck out.

Done in Accra, this Fifteenth day of December 2011, in English and French, the French text being authentic. (signed)

Sophia A. B. AKUFFO, Vice-President

Robert ENO, Acting-Registrar

In conformity with Article 28 (7) of the Protocol and Rule 60 (5) of the Rules of Court, Judge Fatsah OUGUERGOUZ appended a separate opinion to the present decision.