

## PROCEDURE

### Jurisdiction

#### Personal jurisdiction - Complaints submitted by individuals

The direct seizure of the court by an individual can only be against a state party which has ratified the Protocol and made the article 34(6) declaration absent which the court manifestly lacks jurisdiction (See eg *Michelot Yogogombaye v The Republic of Senegal*, application 001/2008, judgment, 15 December 2009; *Soufiane Ababou v Algeria*, application 002/2011, decision, 16 June 2011; *Delta International Investments SA, Mr Agl de Lange and Mrs M de Lange v The Republic of South Africa*, application 002/2012, decision, 30 March 2012); *Youssef Ababou v Kingdom of Morocco*, application 007/2011, decision, 2 September 2011; *Daniel Amare and Mulugeta Amare v Republic of Mozambique & Mozambique Airlines*, application 005/2011, decision, 16 June 2011 para 8; *Amir Adam Timan v The Republic of Sudan*, application 005/2012, decision, 13 March 2012 para 8; *Ekollo Moundi Alexandre v Nigeria and Cameroon*, application 008/2011, decision 23 September 2011 paras 8-10; *Emmanuel Joseph Uko and others v The Republic of South Africa*, application 004/2012, decision, 30 March 2012 paras 11-13). If the declaration has not been made by the state concerned, it will not matter that the individual's application is accompanied by a request for provisional measures (*Baghdadi Ali Mahmoudi v The Republic of Tunisia*, application 007/2012, decision, 26 June 2012, paras 10-13). Applications such as these are nowadays dismissed by the registry and do not appear before the Court.

Cases against international organisations are also not admissible. Thus the Court dismissed an AU staff dispute for lack of jurisdiction (*Efoua Mbozo'o Samuel v The Pan African Parliament*, application 010/2011, decision, 30 September 2011). The majority of the court also dismissed an application against the African Union challenging the requirement of a 34(6) declaration for direct access to the Court for lack of jurisdiction (*Femi Falana v The African Union*, application 001/2011, judgment, 26 June 2012). The African Union not being a party to the Protocol cannot be subject to the obligations arising from the Protocol. (*Falana v AU* para 71). Three dissenting judges held that the Court had jurisdiction in this case and pointed out how by preventing the Court from hearing individual applications, article 34(6) was at odds with the objective, language and spirit of the Charter.

The next of kin of a deceased victim can in certain circumstances institute proceedings on their own behalf and on behalf of the direct victim. Thus a case dealing with lack of due diligence in the investigation of extrajudicial executions was brought by the families of the persons killed. *Beneficiaries of late Norbert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo & The Burkinabe human and peoples' rights movement v Burkina Faso*, application 013/2011, judgment, 28 March 2014).

The fact that one indicated applicant dissociates himself from an application does not make an application inadmissible. (*Frank David Omary and others v The United Republic of Tanzania*, application 001/2012, ruling, 28 March 2014, para 89).