

Withdrawal of States from African Court a blow to access to Justice in the region

The International Commission of Jurists (ICJ) today condemned the recent decisions of the governments of the Republic of Benin and Côte d'Ivoire to withdraw their respective declarations that gave individuals and nongovernmental organizations the right to directly bring cases of human rights violations against those States, before the African Court on Human and Peoples Rights.

The ICJ called on the authorities of both States to reconsider and rescind these decisions

Coming after a similar withdrawal by Tanzania in November 2019, these withdrawal decisions serve to deprive the inhabitants of these countries access to a judicial remedy at the regional level for human rights violations, and undermine the effective of the African regional human rights system.

The ICJ stressed that withdrawal decisions serve to undermine Aspiration 3 of the African Union's AGENDA 2063, by which the AU aims at "[a]n Africa of good governance, democracy, respect for human rights, justice and the rule of law." states.

Both States have offered vague and unsubstantiated rationales for there decisions, but their actions follow their dissatisfaction with the outcomes of particular cases against them. Responses of this kind are effectively an attack on the independence of the Court and can serve to undermine the integrity of the Court itself.

The ICJ recalls that in February 2020, the Executive Council of the African Union called on African States to accede to the Protocol Establishing the African Court and to make the declaration required under article 34(6) of the Protocol. These decisions of the governments of Benin and Côte d'Ivoire to withdraw their article 34(6) declarations fly in the face of this call by the Executive Council of the African Union and greatly threaten the progress that has been made towards protection of human rights in Africa.

Background

Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights establishing the African Court on Human and Peoples' Rights requires that State Parties to the Protocol make a separate declaration in order to allow direct access to individuals and non-governmental organizations to bring cases against them before the African Human Rights Court. Benin which deposited its declaration on 8 February 2016 announced its withdrawal of the declaration on 23 April 2020. Benin claimed that its decision is based 'dysfunctions and slip-ups' it has increasingly observed in the work of the African Human Rights Court, allegedly resulting in the Court's increasing departure from its mandate and core area of competence. Benin cited the earlier withdrawals of Rwanda and Tanzania as further justification for its decision.

Côte d'Ivoire, which deposited its declaration on 23 July 2013 and announced its withdrawal on 29 April 2020, says that its decision was based on what it considers to be 'the serious and intolerable actions that the African Court has allowed itself' and which 'not only undermines the sovereignty of the state of Côte d'Ivoire ... but are also likely to cause serious disruption to the internal legal order of states'.

Contact:

Arnold Tsunga, ICJ Africa Director, C: +27716405926, or +254 746 608 859 E: arnold.tsunga@icj.org

Solomon Ebobrah, Senior Legal Advisor, ICJ Africa, C: +234 8034927549; E: solomon.ebobrah@icj.org