

010/11 Efoua Mbozo'o Samuel v. the Pan African Parliament

AFRICAN UNION
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

IN THE MATTER OF

EFOUA MBOZO'O SAMUEL

V.

THE PAN AFRICAN PARLIAMENT

APPLICATION No. 010/2011

Decision

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

In the matter of:

EFOUA MBOZO'O SAMUEL

V.

THE PAN AFRICAN PARLIAMENT

Having deliberated,

hereby decides as follows:

1. By an application dated 6th June, 2011, Efoua Mbozo'o Samuel, domiciled in Yaoundé, Cameroon, brought before the Court, a case against the Pan African Parliament, alleging breach of paragraph 4 of his contract of employment and of Article 13 (a) and (b) of the OAU Staff Regulations, and improper refusal to renew his contract and to re-grade him.
2. Pursuant to Rule 34 (1) of the Rules of Court, the Registry acknowledged receipt of the application by letter dated 7th June, 2011.
3. By letter dated 4th August, 2011, the Registry requested the Applicant to specify the human rights violations he alleges, to disclose the evidence he intends to adduce as well as evidence of exhaustion of local remedies in accordance with Rule 34 (1) and (4) of the Rules of Court.
4. By letter dated 22nd August, 2011, the Applicant responded to the Registry by making further submissions underlining allegations of breach, by the Pan African Parliament, of: a. Paragraph 4 of his contract of Employment and Article 13 (a) and (b) of the OAU Staff regulations by refusing to renew his contract and advertising his post even though he had satisfactory evaluation reports; and b. Executive Council Decision EX.CL/DEC 348 (XI) of June 2007 with regard to the remuneration and grading of his employment.
5. Article 3 (1) of the Protocol provides that "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 instrument ratified by the States concerned."
6. On the facts of this case and the prayers sought by the Applicant, it is clear that this application is exclusively grounded upon breach of employment contract in accordance with Article 13 (a) and (b) of the OAU Staff Regulations, for which the Court lacks jurisdiction in terms of Article 3 of the Protocol. This is therefore a case which, in terms of the OAU Staff Regulations, is within the competence of the Ad hoc

Administrative Tribunal of the African Union. Further, in accordance with Article 29 (1) (c) of its Protocol, the Court with jurisdiction over any appeals from this Ad hoc Administrative Tribunal is the African Court of Justice and Human Rights. The present Court therefore concludes that, manifestly it doesn't have the jurisdiction to hear the application.

7. For these reasons,

THE COURT, unanimously

Finds that, in terms of Article 3 of the Protocol, it has no jurisdiction to hear the case instituted by Efoa Mbozo'o Samuel against the Pan African Parliament.

Done at Arusha, this thirty day of September, in the year Two Thousand and Eleven, in English and French, the English text being authoritative.

Signed:

Gérard Niyungeko, President

Robert Eno, Acting Registrar

In accordance with Article 28 (7) of the Protocol and Rule 60(5) of the Rules of Court, the separate opinion of Judge Fatsah Ouguergouz is appended to this judgment.