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The Court composed of: Imani D. ABOUD, President; Blaise TCHIKAYA, Vice-President, Ben KIOKO, Rafâa BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI - Judges, and Robert ENO, Registrar.

In the Matter of:

Houngue Éric NOUDEHOUEYOU
Represented by Mrs. Nadine DOSSOU SOKPONOU, Lawyer of the Benin Bar, Member of *Société Civile Professionnelle d'Avocats* (SCPA) Robert M. DOSSOU.

Versus

REPUBLIC OF BENIN
Represented by Mr. Iréné ACOMBLESSI, Judicial Agent of the Treasury.

After deliberation,
renders this judgment

I. THE PARTIES

1. Mr. Houngue Éric Noudehouenou, “the Applicant”) against a politician and a member of the National Conference of 2 July 2018 and supplementing the order of 1999 pertaining to the Hénouf Judicial District constituted by challenges the eligibility of the elections in his country.

¹ Law No. 022 of 2 July 2018.
² Law No. 27 of 18 March 1999.

2. The Application is filed against the Respondent State which became a Party to the African Charter on Human and Peoples' Rights on 27 October 1986 and to the Protocol to the African Charter on Human and Peoples' Rights on 12 August 2014. On 27 February 2016, the Respondent State deposited its ratification of the Protocol in Article 34(6) of the African Charter on Human and Peoples' Rights. On 25 March 2020, the Respondent State has held that the instrument of withdrawal is not binding on pending cases filed before the entry into force of the Protocol one year after its deposit³, which is on 26

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application that the Respondent State passed Law-018/2018 and supplementing Law-094/2007 of 18 March 1999. The Respondent State claims that the Law-018/2018 contains provisions that violate the independence of the judiciary. He claims that the executive and judges have no remedy against sanctions imposed by the HJC.

³ *Houngue Éric Noudehouen*, *ou* A.C.H.P.R., *Application* in *Benni* No. 004/2020 (provisions and measures) and § 4 of 29 July 2020.

4. He also challenges of a law No. 2018 2018 pe status of ,t wh ijudibair ar y judges from going although the said law was declared unco Court by Deci s-0 0 3 nfo . 2 DC Carisam Co u 2 0 1 8 , by th Decision-1 DC C of 18 28 d en er 2 0 1 8 d r h e d e c y r s i o n declaring the same law consistent with

5. The Appali sc a t l e n g e s L - 4 0 N 6 . 7 2 O n 1 9 v e m b e r amending the Respondent State's Consti (here i n a f t e r " t h e C o n s t i t u t i o n a l a n d e n l a w e n O . 2 0 1 4 9 3 o f 1 5 N o v e m b e r 2 0 1 4 e c t e r (a t h a i C o i d e g a f t t o e r e f e r r e d t h e E l e c t o r) ") , w h i c h w e r e r u l e d c o n s t i t u t i o n a l C o u r t i n 5 0 4 D e c i s i o n s o n 9 v e m b e r . and DC 5 2 5 9 o f 1 4 N o v e m b e r F i 2 0 1 1 9 1 y r , e s p e c t h i a v l e M e m o r a n d u m N o . 9 1 4 / M E F / D C / / S G M / D G I o f 1 3 t h e D i r e c t o r G e n e r a l o f T a x e s .

B. Alleged violations

6. The Appali sc a t l e n g e s o f t h e f o l l o w i n g r i g h t s :
 - i . t h e r i g h t t o j u d i c i a l i n d e p e n d e n c e p r o t e c t e d i n A r t i c l e s 2 a n d 1 4 (1) o f t h e I n t e r n a t i o n a l C o v e n a n t o n C i v i l a n d P o l i t i c a l R i g h t s (I C C P R) , A r t i c l e s 1 0 a n d 3 0 o f t h e U n i v e r s a l D e c l a r a t i o n o n H u m a n R i g h t s (U D H R) , A r t i c l e 1 (h) a n d 3 3 o f t h e A f r i c a n C h a r t e r o n B u r e a u c r a c y ;
 - i i . t h e r i g h t o f j u d g e s t o s t r i k e p r o t e c t e d c o n s e q u e n t l y t h e v i o l a t i o n o f t h e i r r i g h t s t o f r e e a n d e x p r e s s i o n , t o f o r m a s s o c i a t i o n s f r o m t h e f r e e d o m o f a s s e m b l y , p r o t e c t e d r e s p e c t i v e l y i n t h e A f r i c a n C h a r t e r ;

- iii. the right to a remedy enshrined in Article 10 of the UDHR, Article 10 of the ECHR, Article 23 of the Charter, and Article 23 of the ICCPR;
- iv. the right to freedom of the media protected by Article 19 of the ICCPR;
- v. the right to freedom of religion protected by Article 18 of the ICCPR;
- vi. the obligation to ensure that the competent authorities take appropriate steps to provide a remedy, founded on Article 2(3)(c) of the ICCPR, and of the right to a fair trial protected by Article 14 of the ICCPR and Article 30 of the Protocol;
- vii. the right to guarantee effective protection and enforcement of fundamental rights protected by Article 1 of the ICCPR and Article 1(h) of the ECHR;
- viii. the obligation to establish and strengthen national electoral management bodies provided for in Article 13 of the African Charter on Democracy, Elections and Governance;
- ix. the right to participate in public life in their country protected by Article 13 of the ICCPR;
- x. the right to vote and to be elected at universal and equal suffrage and secret ballot protected by Article 21 of the ICCPR;
- xi. the right of defence, protected by Article 14 of the ICCPR;
- xii. the right to association protected by Article 22 of the ICCPR;
- xiii. the right to a fair trial protected by Article 14 of the ICCPR;
- xiv. the obligation to ensure the independence of the judiciary protected by Article 3(10) of the ICCPR;
- xv. the obligation to ensure that no law or practice that undermines the principle of the rule of law is adopted or implemented; and
- xvi. the obligation to ensure that no law or practice that undermines the principle of the rule of law is adopted or implemented; and
- xvii. the right to privacy protected by Article 17 of the ICCPR;
- xviii. the obligation to ensure the effectiveness of the Covenant protected by Article 2 of the ICCPR;

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

7. The Applicant filed the Application on request for provisional measures on 28 served on the Respondent State on 16 October ninety (90) and fifty (5) day 2020 Respondent State responded to the request measures
8. On 27 November 2020 the Court issued a ruling on provisional measures. It was served on
9. On 4 January 2021, the Applicant filed pleadings to the Application and another which were notified to the Respondent State within 30 days of receipt. State did Response to the request for provisional
10. On 1 February 2021, the Applicant filed submission in support of the Application Respondent State on 2 February 2021 by receipt.
11. On 29 March 2021, the Commission issued a ruling on provisional measures. The ruling was served the Parties on 9 April 2021.
12. On 30 June 2021, the Registry reminded not response either to the Application pleadings of the Applicant. The Registry it had been granted an additional 30 days

and drew its attention to the Respondent's position on the Respondent's side of the mainny Ap to the said supplementary pleadings.

13. On 14 July 2022, the Applicant filed a t which was notified to the Respondent 2022. Respowistehin fifteen (15) days from recei

14. On 2 August 2022, the Respondent State request for provisional measures. On the notified to the Applicant, who filed

15. On 15 September 2022, the Applicant fil measures. It was notified to the Respon information as the Court decided to exam request filed at the same time as the A merits.

16. Pleadings closed on 7 November 2022 and informed.

IV. PRAYERS OF THE PARTIES

17. In the Applicant's supplementary pleadings, the Applicant pr Court to:

- i. Declare that it has jurisdiction;
- ii. Declare the Application admissible;
- iii. Declare that he has the right to have et the instruments to which the Responden

- xi Order the Respondent State to publish the official website of the Ministry of Justice, Official Gazette of the Republic of Benin and the Respondent State;
- xii Order the Respondent State to bring the Beninese penal code in compliance with deleting the "s'expiraisisizidhsdpurtes" as to recognize the right of means of communication as the right to make technical comments "pur" by leaving a source of arbitrariness;
- xiii Order such measures as the Commission may determine to ensure compliance including a prohibition on the Respondent's actions against the Applicant and/or his family in this case, in accordance with Article 2 (b) of United Nations Resolution 60/147 of 18 December 2005;
- xiv Order that all Member States of the African Union take measures to neutralise the effects and consequences of the Respondent State's failure to comply with the decision of the Commission;
- xv Order the Respondent State to bring into force the December 1990 on the Constitution of the Republic of Benin and Article 18 of the ICCPR by order of the Commission;
- xvi Order the Respondent State to repeal the Law No. 914/MEF/DC/SGM/DGI of 13 December 2017 on the election in the Republic of Benin;
- xvii Order the Respondent State to vacate the decision of the Constitutional Court of Benin of 18 June 2020, DCC 802/DC/102 and DCC 017/DC/102 of 17 January 2020 and Decision 141/DC/18 June 2018;
- xviii Order the Respondent State to restore his rights;
- xix Order the Respondent State to have the State recomposed by virtue of the judgment.

Application Nos. 059/2020 and 010/2020,
 202-Application Nos. 062/2019 and 003/2020

xx Order the Respondent State to execute the
 Rulings of 5 May 2020 and 25 September
 December 2020 delivered in the Appeals filed on
 Hundred (Million) CFA francs for each month
 execution until the full and perfect execution
 December 2022 in Application No. 003/2020

xx Order the Respondent State to bear all
 proceedings to the tune of Fifteen Million
 lawyer's fees and Five Hundred Thousand
 costs of mail and communication, as well as
 (500,000,000 CFA francs) and to pay the costs
 the failure of the Respondent State to
 this Court in favour of the Applicant;

xx Order the Respondent State, in view of
 decisions of this Court, to pay the amount
 of One Billion (1,000,000,000) CFA francs
 decision of the Court, from the date of
 Court until the Respondent State has fulfilled
 said decision;

xxi Order the Respondent State to publish this
 gazette of the Respondent State on the website
 of Benin (CCB), the National Independent
 and the *l'Essor* newspaper, for an uninterrupted
 from the date of notification of this Court.

18. The Respondent State did not submit an
 Applicant in the merits. It however requests
 jurisdiction to request for provisional
 2022

V. JURISDICTION

19. Article 3 of the Protocol provides that

1. The jurisdiction of the Court shall be to interpret and apply the Charter, this Protocol and any other instrument ratified by the States concerned.

2. In the event of a dispute as to whether the Court shall decide,

20. Furthermore, Rule 49 (1) of the Rules of the Court, shall conduct a preliminary examination of its jurisdiction over the Charter, the Protocol and these Rules.

21. Based on the above provisions, in each case the Court shall ascertain its jurisdiction and rule on it.

22. In its Response to the request for provisional measures, the Respondent State shall object to the personal jurisdiction of the Court.

A. Objection to the personal jurisdiction of the Court

23. The Respondent State submits that the Court should not entertain new applications from the Government of the Respondent State. It further submits that although the application for provisional measures is based on an application submitted by the Respondent State,

⁴Rule 39(1) of the Rules of 2 June 2010.

Declaration took effect, the Court has request.

24. The Applicant submits in reliance of Article and Article 5⁵ of the Rules of Court, the Court provisional measures in cases of urgency or imminent violations of fundamental rights and justice and/or the effectiveness of the law on the merits.

25. He further contends that, in any event satisfied that it has jurisdiction as regards that jurisdiction.

26. Further more in Article 3(1) of the Protocol that the Court has jurisdiction insofar as the African Charter, the Protocol, deposited with the Secretary-General of the Organization of African States and the rights instruments.

27. He avers that although the Respondent State withdrawal of the Declaration on 25 March 2020 effect from 26 March 2020 and the Applicant which was filed before that date.

* * *

28. The Court notes that the Respondent State deposited the Declaration with the Secretary-General of the Organization of African States and the rights instruments.

⁵Rule of 25 September 2020.

in paragraph 2 of this Judgment. Respondent State deposited the said Declaration with the Court's jurisprudence, the withdrawal Declaration has no retroactive effect, and the time of the said withdrawal is not to be taken into force. Since the withdrawal of the Declaration took place several months after the deposition, on 26 March 2021, it has no effect from 20 September 2020.

29. The Court further notes that although the Declaration was filed after the withdrawal of the Declaration in 2021, its personal jurisdiction in the said request is established by the initial Application filed in September 2020, that is, before the withdrawal. Consequently, the said withdrawal does not affect the personal jurisdiction of the Court.

30. In view of the foregoing, the Court finds that it has personal jurisdiction over the case.

B. Other aspects of the Court's jurisdiction

31. The Court notes that it has material jurisdiction under all relevant provisions of the Charter, the ADEG, the Protocol on Democracy, to which the Respondent State is a party.

⁶See paragraph 2 of this judgment.

⁷The Respondent State ratified the ICCPR on 12 March 2001 and the ECOWAS Protocol on Democracy on 12 December 2001.

32. The Court considers that it has temporary jurisdiction over the alleged violations occurred after the adoption of the Charter and that it has accepted the Declaration.

33. As regards its territorial jurisdiction, the Court finds that the Respondent State has accepted the Court's jurisdiction insofar as the alleged violations occurred on its territory.

34. Accordingly, the Court finds that it has jurisdiction over the Application.

VI. ADMISSIBILITY

35. Article 6(2) of the Charter provides that the Court shall have jurisdiction over the admissibility of cases taking into account the provisions of the Charter.

36. In accordance with Rule 50 of the Rules of Procedure of the Court, the admissibility of an Application filed under Article 6(2) of the Charter shall be determined in accordance with the provisions of Article 6(2) of the Charter.

37. Rule 50(2) of the Rules of Procedure, which is contained in Article 6(2) of the Charter, provides that:

- Applications to the Court must meet all the following conditions:
- Indicate their authors even if the latter request anonymity;
 - Are compatible with the Constitutive Act of the African Union and with the Charter;

⁸Rule 40 of the Rules of 2 June 2010.

- c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;
- d. Are not based exclusively on news disseminated through the mass media;
- e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
- f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date the Commission is seized with the matter, and;
- g. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the Charter.

38. The Respondent State does not raise any objection to the Application. Nonetheless, the Court examines whether the requirements for admissibility have

i. On the requirement relating to the identity of the Applicant

39. In this regard, it notes that in accordance with the evidence, the Applicant has clearly indicated his identity.

ii. On the requirement relating to the compatibility of the application with the Constitutive Act of the African Union

40. The Court notes that the Applicant's request is filed under the Charter. Furthermore, one of the objectives of the African Union, as set out in Article 1 of the Constitutive Act, is the protection of human rights and the promotion of their rights. The Applicant has provided a record to show that the Application is compatible with the Constitutive Act. The Court therefore

compatible with the Constitutive Act of
and therefore finds that it meets the
Rules.

iii. On the requirement relating to the use of disparaging or insulting language

41. The Court further notes that the Application that is disparaging or insulting to the African Union under Rule 50(2)(d)

iv. On the requirement relating to news disseminated through the mass media

42. The Court further finds that the Application 50(2)(d) of the Rules since it is not in the mass media, it relates to defamations, Respondent State

v. On the requirement relating to the exhaustion of local remedies

43. The Court notes, with regard to the exhaustion of local remedies, that the Application is based on a violation of Article 10 of the African Charter on Human and Peoples' Rights. The Court notes that the Commission's decision of 13 December 2011 in the case of *Oron and others v. Nigeria* (HJ/914/MEF/DC//SGM/DGI) and its subsequent decision of 12 November 2019 on the application for a writ of *habeas corpus* (HJ/914/MEF/DC//SGM/DGI) and its subsequent decision of 12 November 2019 on the application for a writ of *habeas corpus* (HJ/914/MEF/DC//SGM/DGI) are not binding on the Commission. The Court notes that the Commission's decision of 13 December 2011 in the case of *Oron and others v. Nigeria* (HJ/914/MEF/DC//SGM/DGI) and its subsequent decision of 12 November 2019 on the application for a writ of *habeas corpus* (HJ/914/MEF/DC//SGM/DGI) are not binding on the Commission. The Court notes that the Commission's decision of 13 December 2011 in the case of *Oron and others v. Nigeria* (HJ/914/MEF/DC//SGM/DGI) and its subsequent decision of 12 November 2019 on the application for a writ of *habeas corpus* (HJ/914/MEF/DC//SGM/DGI) are not binding on the Commission.

44. The Court ruled that the remedy must be an effective and satisfactory. The Court held that the remedy to exist in order to meet the requirements of the Applicant is, in fact, required to exhaust all prospects of success.

45. As regards the application of Article 14 of the Constitution of Burkina Faso, the Court held that the remedy to exist in order to meet the requirements of the Applicant is, in fact, required to exhaust all prospects of success. The Court held that the remedy to exist in order to meet the requirements of the Applicant is, in fact, required to exhaust all prospects of success.

46. It follows that a local remedy was available. This remedy is also available. The Court held that the remedy to exist in order to meet the requirements of the Applicant is, in fact, required to exhaust all prospects of success.

47. The Court notes that the Applicant did not pursue this administrative remedy, let alone appeal to the courts of the Respondent.

⁹ *Beneficiaries of the late Norbert Zongo, Aboulaye N. Ilboudo and Mouvement Burkinabè des droits* (Merits) (28 March 2014), 1 Afr. C.L.J. 2014 (1) 133-134. See also *Sébastien Germain Marie Aikoué* (Applicant) v. *Etat de Côte d'Ivoire* (Respondent) (Judgment of 4 December 2020), §§ 99.

¹⁰ Article 53 "In administrative matters, the remedies available concerning all acts issued by the administrative authorities fall within the scope of the jurisdiction of the administrative tribunals for annulment of the acts of the administrative authorities. The administrative tribunals have jurisdiction over the administrative appeals for interpretation of the acts of the said authorities in litigation involving a legal person or a private individual or claims by private individuals for damage caused by the acts of the administrators of the administration; 5) tax litigation."

914 / MEF / DC / / SGM / DGI of 13 December 2017
exhausted. Consequently, the Court declines
the ~~Memorandum~~ and dismissible.

48. With regard to the contestation of the
under Article 132 of the Constitution of the
the Constitutional Court is the judge
guarantees the fundamental rights of
freedom and ensures the constitutional
laws in general principle of full and
action concerning a violation of human
Respondent State. Consequently, a

49. The Court further notes that Article 112
the Constitution on the constitution
promulgation, and at the request of the
member of the National Assembly.

50. In this respect, the Court underlines
the Constitution of the Respondent State
review, which relates to both the
law and its content "to ensure the

¹¹ "The Constitutional Court shall ensure the constitutionality of laws and guarantees the fundamental freedoms (...)"

¹² "Any citizen may refer to the Constitutional Court to the exceptional procedure based on unconstitutionality of the law to the court."

¹³ See also Article 4 of the Law of 31 May 2001 on the organic Court, as amended by the Law of 31 May 2001

¹⁴ Article 7 of the Constitution of Benin provides: "The African Charter on Human and Peoples' Rights, adopted and ratified by Benin on 20 January 1986, are an integral part of the national law."

¹⁵ Article 35 of the Rules of Procedure of the Constitutional Court provides: "The Constitutional Court shall rule on the procedure for its drafting"

a case approach to assessing what courts taking into account the time period that has taken into consideration the impact on the reasonable time within which Court: the incarceration of that Applicant does not have, illiterate, is of the Court, was being in the exhaustion of extraordinary remedies.

55. The Court recalls that it has held that regarding human rights on 04 January 2018 on the 2018 of Law No. 09 of 7 November 2019 on the Electoral Code were declared to be unconstitutional. Decisions of 18 June 2018, 18 December 2019 and 6 November 2019 of the Constitutional Court.

56. The Court considers that the count of a period from the dates the Constitutional Court 2018, 6 November 2019 and 14 November 2019 that of the filing of the Appellate September 2019 two (2) months, ten (10) months

¹⁸ *Beneficiaries of the late Norbert (2018) (Prud'homme v. United Republic of Rwanda) (Merits)*, 1 AfCLR 482, § 73.

¹⁹ *Alex Thomas (Merits) v. Christopher John (Merits) v. Ramadhani (Merits)* (11 May 2018), § 3.2 AfCLR

²⁰ *Association pour le progrès et la défense des droits et du développement (APD) v. République Rwandaise (Merits)* (11 May 2018), § 49; *Armand Guéhi (Merits) v. République Rwandaise (Merits)* (7 December 2018), § 49; *Ghan (Merits and Reparations)* (7 December 2018), § 283.

²¹ *Armand Guéhi (Merits) v. République Rwandaise (Merits)* (7 December 2018), § 49; *Ghan (Merits and Reparations)* (7 December 2018), § 283.

and ten (10) months and three (3) days be determined is whether these provisions have the meaning of Article 56(6) of the Charter

57. The Court notes that to justify the leave Application, the Applicant asserts that information has been established from 20 February 2018, as he did not have free access to the official newspaper of the Respondent finds in particular that while his failure at that time due to incarceration cannot be justified on assumptions but must be proven with evidence.

58. The Court notes that it emerges from the evidence that the Applicant was detained on 20 February 2018, and the Court considers that as a result of this detention, the Applicant's access to information was significantly reduced and that legislative and regulatory developments were not known to him. The Court notes that owing to his escape, the Applicant's access to documents for the purpose of initiating proceedings became more difficult.

59. In the circumstances of this case, the Court is satisfied that the requirements of Article 50(2)(f) are met.

vii. On the requirement relating to cases which have been settled by the Parties

60. Finally, the Court notes that, pursuant to the evidence, there is no indication that the present Application

65. He submits that Article 1 of the Law on the HJC that the latter is mostly composed including the President of the Republic, the Minister of Justice, the Minister of the Interior and the Minister of the Service.

66. He further contends that the President deliberations of the HJC and that the majority of its seventeen (17) members are judges who are members of the HJC, only two are not judges, the others being appointed by the President in view of this composition, which speaks in favour of the power over the HJC that is violated Article 26.

67. The Respondents submit that the alleged violation of Article 26 is not a violation of the Constitution.

* * *

68. The Court recalls that Article 26 of the Constitution states that it is the duty to guarantee the independence of the judiciary.

69. The Court notes that this provision does not apply only to the courts, as judicial bodies, but also to the executive power and the

70. In this regard, the Court endorses the doctrine of separation of powers requiring each power to be exercised independently. The executive power is separate from the judiciary, likewise in

²² *Sébastien Germain Marie Aiko, ué* A.C.T.J.H.P.V.R., n. 1, p. 1. *Recueil de la Cour* No. 100, Judgment of 4 December 2020, § 310.

its independence, the judiciary, must be executive and parliament

71. The Court notes that in the instant case, Article 127 of the Constitution of Kenya, which vests judicial power in the Supreme Court, the courts and tribunals, is the guarantor of the independence of the judiciary. The Executive Power of the Republic is vested in the President of the Republic. Article 127 of the Constitution provides that the independence of the judiciary is given in fact.

72. The Court therefore considers that the Executive Power should not interfere with the independence of the judiciary. It follows that neither the Executive nor the Legislature should interfere with the independence of the judiciary. The Executive Power should not interfere with the independence of the judiciary. The Executive Power should not interfere with the independence of the judiciary.

73. The Court underlines that it emerges from the facts relating to the HJC that the latter is not independent of the Executive Power. The judges from the day they take their oath of office are subject to discipline within the judiciary. The Executive Power is the guarantor of the independence of the judiciary. The Executive Power should not interfere with the independence of the judiciary. The Executive Power should not interfere with the independence of the judiciary.

²³ACHPR *Kevin Mwangi Gunme and Others v. Kenya*, Case 2003/03, § 45, ordinary session, May 2010.

²⁴"The judiciary power is independent of the legislature by the Supreme Court, the courts and tribunals established by the President of the Republic is the guarantor of the independence of the judiciary."

²⁵"The President of the Republic is the guarantor of the independence of the judiciary by the High Judicial Council."

74. It is therefore for the Court to assess the HJC.

75. The Court notes that the (new) Article 15 provides for fifteen (15) members including four (4) from the executive branch, namely, the Minister of Justice, the Minister of Civil Service, The President of the Republic and other members from outside.²⁶ The judges are noted that the seven (7) full members and seven (7) members of the Respondent State's National Assembly.

76. It also notes that the President of the HJC while the Keeper of the Seal of the Court notes that the President of the HJC deliberations.²⁷

77. Moreover, according to Article 127 of the Law on the HJC assists the president in his mission as guardian of the independence

²⁶ Ex officio members by right: The President of the Republic, the Prime Minister, the Keeper of the Seal, the Minister of Justice, the Presidents of the Chambers of the Supreme Court, members of the Supreme Court, member; A President of a Court of Appeal, member; The Minister of Public Service, member; The members: Four (4) personalities from outside the judiciary, the public prosecutor, one member appointed by decree of the President of the Republic.

²⁷ Article 13 of the law on the HJC Act: "In the event of the absence of the President of the HJC, the President of the Chamber of the HJC shall assume the functions of the President of the HJC in order to ensure the independence of the judiciary. He is assisted by the President of the Chamber of the HJC."

²⁹ Article 11 of the law on the HJC "the High Judicial Council is the guardian of the independence of the judiciary and the

requiring the HJC to assist the President in the control and tutelage of the latter.

78. The Court notes that the Constitutional Council's decision of 23 January 2018 which declared the law of 2017 unconstitutional and, secondly, by 2 December 2018 which reversed the first decision

79. The Court holds that the Constitutional Council's interpretation which declared that the law of 2017 was unconstitutional in the composition of this court concerns for the independence of the judges, in addition to the President of the Republic, the independence of the judiciary and the charge of managing the careers of magistrates of the Civil Service and the Ministry of Justice of the Constitutional Council.

80. On that same occasion, the Constitutional Council, in the interests of the independence of the legislator, in the interests of the independence of the executive, for a certain balance in the separation of powers, specifies that the external persons likely to be appointed to the National Assembly must be appointed on the basis of proposals emanating from the parliament.

81. Furthermore, the Court notes that the law of 2017 grants the President of the Republic, for the administrative management of the judicial system, a sometimes discretionary authority over the appointment of the person responsible for the management of the judicial system. As such, he determines the

sector and it is on his proposals that
appointment by the President of the Rep

82. In the ~~above~~, of the Court finds that the
the composition of the HJC are skewed in
that, consequently, the conditions for
met.

83. Consequently, the Court ~~responds~~ ~~at least~~
Article 26 of the Charter.

B. On the alleged violation of the right of judges to strike

84. The Applicant asserts that the prohibi
20 of Law-0 No of 2018 January 2018
arbitrary insofar as it is not justified
of the Charter and does not respect
requirements of the general interest of
of protecting fundamental rights.

85. He states that the withdrawal of this r
human rights instruments in particular
principle of the supremacy of the Cons
Respondent State's Constitution express
all persons. According to him, what is
only regulated.

86. He further contends that the violatio
consequently ~~it is~~ violation of their rig
opinion and of expression, their right

assemble freely, protected respectively
Charter.

87. The Respondents submit that in violation of

* * *

88. The Court notes that in *Okab Law* (2018) on
the jurisdictional appeal by *Okab Law* (2018) on
prejudicial right to strike.

89. It follows that in violation of the judges' right
the violation of related rights made by

**C. On the alleged violation of Article 30 of the Protocol for non-execution of
the decisions of the Court.**

90. The Applicant submits that the Court has
the Respondent State, namely, the Ruling
judgments of 29 November 2019 and 13 April 2017
Sébastien Ajavon v. Benin judgment of 27 Nov
Applicant v. Benin judgment of 17 Apr
judgment of 4 December 2020 *Sébastien Ajavon*
Germain Ajavon v. Benin judgments of 5 May and 25
judgment of 4 December 2020 *Houénou* v. Benin
Noudéhouéno v. Benin judgment of 27 November
No. 010/2020. Benin

91. He asserts that by these decisions, the
State to take the necessary measures, a la
Code and subsequent laws before any elect

the 25 July 2019 ruling of the CRIET; a participation in presidential, municipal

92. He contends that the Respondent State omissions and did not submit any report

93. The Applicant considers that, by failing Respondent State violated Article 30 of

94. The Respondents' obligation

95. Article 30 of the Protocol provides that

The States parties to the present Protocol shall not be held responsible for any judgment in any case to which they have not stipulated by the Court.

96. The Court notes that, in its judgments, the binding nature of which is provided for in the Rules, which shall be binding and are enforceable as provided under Article 30 of the Protocol.

97. The Court observes that the fact that the execution of several decisions it has rendered that it must take into account only the party, in particular, in the case of the judgment of 04 September 2020, and the judgment of 04 September 2020, *Eric Noudéhouenou v. Benin*

98. In this regard, the Court notes that all relate in no way, directly or indirectly, to the aforementioned decisions.

99. The Court also notes that it has not Respondent State on the execution of the Respondent State has not admitted them

100. In view of the foregoing, the Court concludes that the Respondent State has violated Article 30 of the Protocol.

D. On the alleged violation of the right to freedom of opinion and expression

101. The Applicant Article 41(1)(b) of the Penal Code provides that:

Any person who, by acts, speech or written judicial act or decision, under conditions the judiciary, is liable to one month's imprisonment and a fine of One Million (1,000,000) CFA francs, or ... The foregoing provisions apply to technical comments in specialized journals, nor to the revision of a conviction

102. He alleges that these provisions infringe expression protected by Article 19 of the freedom of the media to specialized journals to criticize a court decision only in rather than in respect of the exercise

103 The Respondents submit that the degradation

* * *

104 Article 9(2) of the Charter provides that everyone has the right to express and disseminate his opinions

105 Article 19 of the Charter provides that everyone has the right to hold opinions without interference and to express them freely. Everyone shall have the right to freedom of expression. This right shall include the freedom to receive and impart information and ideas without any interference by public authorities. No one shall be subjected to arbitrary interference with his private life, family, home or correspondence, nor to attacks on his honour and reputation. Everyone has the right of access to the courts.

106 It follows from these texts that, on the one hand, the right to freedom of expression and the right to the free development of opinions are closely linked, and the two freedoms are essential for the development of opinions. The two freedoms must be exercised within the framework of the rights and freedoms of others. On the other hand, freedom of expression must be exercised within the framework of the rights and freedoms of others. Any restrictions on the rights to freedom of expression provided for by law must be necessary and proportionate to a legitimate aim and be necessary and proportionate to a legitimate aim and be necessary and proportionate to a legitimate aim.

107 The Court considers that the restrictions on the rights to freedom of expression of the Applicant are necessary, legitimate and proportionate to a legitimate aim.

108 The Court in the instant case that Article 10 punishes anyone who publicly seeks to do so by acts, speech or writing, under conditions of the judiciary in domestic criminal law (in criminalisation) are purely technical compliance as acts, speech or writings calling for

109 The Court notes, first, that the restrictions must be prescribed by law, and be consistent standards and that domestic laws restricting foreseeable and consistent with the purpose of human rights. They must also apply to the case³⁰ here.

110 Second, regarding the legitimacy of the restriction, the Court underlines that the general restriction in Article 10 of the Charter refers to the interests, collective and the common good. The Court also considers that public order and public morality are legitimate

111 In the instant case, the Court notes that the comments to specialised journals only. It states that specialised journals are not the only means of dissemination of technical opinions on the communication market, but that newspapers, radio broadcasts, or courses developed by teachers

³⁰ *Sébastien Germain Marie Aikowé et Al. v. République de Côte d'Ivoire*, Judgment of 4 December 2020, § 123.

³¹ *Idem*, § 123.

112 The Court also notes in the present case paragraph 3 of Article 410 of the Criminal Code is aimed at a legitimate aim, since there is no compelling reason to restrict certain means of communication thereby to others which are available to them to express their views and decisions and thus to ensure freedom of expression.

113 The Court also considers that there are no overriding public morality considerations for such a restriction. Article 410 already punishes the dissemination of information of undermining the authority or independence of the judiciary.

114 In view of the foregoing, the Court concludes that the applicant has not violated the right to freedom of opinion and expression of Article 19 (2) of the Charter.

E. On the alleged violation of the right to an effective remedy for the protection of human rights

115 The Applicant asserts that the law in question was not adopted by parliament prior to the promulgation of the law. The applicant complains that the judges with regard to measures taken by the law.

116 As regards the law, the applicant submits that according to Article 121 of the Constitution, organic laws may be promulgated. The Court has held in previous cases that the Constitution is not subject to challenge the competence of the National Assembly. The applicant's challenge to the jurisdiction solely of the National Assembly.

117 He further contends that under Article 1(h) of the ECOWAS Protocol on Democracy and Good Governance, he has the right to contest the constitutionality of a law after the said law has been passed.

118 He further contends that the Respondent State has failed to provide him with any remedy by not affording them any remedy against the law.

119 He avers that the fact that the Respondent State has not provided him with any remedy intervening prior to the law being passed does not constitute a violation of Article 1(h) of the ECOWAS Protocol on Democracy and Good Governance or Article 8 of the UDHR.

120 The Respondent State has not provided any remedy against the law.

* * *

121 Article 7(1)(a) of the Charter provides

“Everyone shall have the right to have access to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of his rights and obligations, or any criminal charge against him, and to be tried in a fair and public hearing within a reasonable time by a competent, independent and impartial tribunal established by law. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of his civil rights and obligations, or any criminal charge against him, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Everyone shall have the right to have access to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of his rights and obligations, or any criminal charge against him, and to be tried in a fair and public hearing within a reasonable time by a competent, independent and impartial tribunal established by law. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of his civil rights and obligations, or any criminal charge against him, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

122 This Article will be read together with Article 1(h) of the ECOWAS Protocol on Democracy and Good Governance which respectively provides

“Each State Party to the present Convention shall ensure that any person whose rights or freedoms as herein set out are violated shall have access to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

shall have an effective remedy, notwithstanding that the violation was committed by persons acting in an official capacity.
"Each individual or organisation shall have access to a fair and public hearing by a common or civil law court, a court of law, or a national institution established within the framework of the instrument on Human Rights, to ensure the effective exercise of this right."

"Everyone has the right to an effective remedy to be granted by national or international tribunals for acts violating the fundamental rights recognised in the constitution or by law."

123 The Court recalls that the right to a fair trial has several components. Firstly, the remedy must be effective. The remedy must not be formal but must be of a nature that is capable of restoring the rights. This implies that the person concerned must have access to a court. Secondly, the scope of the remedy must cover laws, regulations and customs. Thirdly, the remedy must be capable of addressing the allegations of violations of fundamental rights.

124 Therefore, the Court considers that it is sufficient for the Respondent State to allow citizens and non-citizens to bring their rights in court in the event of human rights violations.

i. Citizens

125 The Court notes that Article 117 of the Constitution of the Respondent State provides that:

The Constitutional Court shall rule mandatorily on the constitutionality of laws and regulatory acts allegedly infringing the rights and public freedoms in general, in relation to the State and its organs, and in relation to the State and its organs, and in relation to the State and its organs."

126. The Court further observes with Article 122 of the Constitution and Article 242 of the Organic Law on the Constitution of the Republic, any member of the National Association of Governmental Organisations for Rights may initiate proceedings before regulatory acts alleged to infringe on freedoms and, in general human rights.

127. The Court notes that the power conferred by the ordinary citizens to bring cases before the Court is understandable insofar as the law has been put into force and therefore applies. However, even if the law is not yet in force, the citizens may bring cases before the Court if they consider that their fundamental rights are being violated.

128. As regards the restriction of referral to the Constitutional Court, the Court notes that the law has not yet been promulgated. The Court therefore considers that the law is not yet in force. Insofar as it allows those entitled to

³²Article 122 "Any citizen may refer to the Constitutional Court or by the exceptional procedure based on unconstitutionality before a court. The Court shall decide on the matter within thirty days."

³³Article 22 "Similarly, laws and regulatory acts that violate public freedoms and the violation of human rights may be referred to the Constitutional Court either by the President of the Republic or by the governmental organisation for the defence of human rights."

³⁴Article 24 "Any citizen may, by a letter stating his grievances, refer directly to the Constitutional Court on the constitutionality of laws. He may also, in a case which concerns the violation of his fundamental rights, refer to the Constitutional Court."

The latter, following the exceptional procedure of unconstitutionality, may refer the matter to the Constitutional Court within eight days of the date of the law's promulgation.

of judges that the decisions are not subject to a remedy in cases of violation of human rights and a remedy is pursued before the Constitutional Court.

133 The Court notes, however, that notwithstanding only in cases of fundamental rights and freedoms considers that a decision in this ambit of judges may have an impact on the decision so much so that it amends the said decision.

134 The Court notes in this respect that the decisions are enforceable and are binding on public and judicial authorities and on all natural persons who diligently comply.

135 The Court therefore considers that judgments regarding sanctions pronounced against the Respondent are enforceable.

136 In light of the foregoing, the Court finds that the Respondent did not violate Article 7(1) of the Charter of Fundamental Rights and Freedoms, Article 1(h) of the ECOWAS Protocol on Democracy and Good Governance, and Article 8 of the UDHR.

F. On the alleged violations of the right to independent candidacy, and to the composition of the COS-LEPI

137 The Applicant argues that the amended 153 of the Constitution prohibits any citizen of the Respondent from being a member of a political party.

³⁷Article 20 (w) 2 No 3 of the Constitution of 27 June 2022.

³⁸Resulting from the constitutional amendment of 7 November 2022.

participating in the conduct of public village and city neighbourhood election

13 He further argues that this provision association, the rights to equality and freedom to participate in the public af

13 He submits that by compelling Beninese chosen and nominated by i-1,0 lev it 053 at the e freedom of expression enshrined in Arti

14 The Applicant further submits that Ar Constitution requires aspiring candidat run in deméial elections. El Uendteorr, aAl to tCl oyd ee deputies and mayors are emp, where reeda st oa lsl p the deputies as well as nearly all ma government .

14 To this effect, h or s u b a m i e t s i l t l e a g t i t t i m e a t m a y were elected in the communal and municipi held in violation of the decisions of t Application No. 062/2019 and 5 May 2020

14 He further contends that as elections go, the entire population of the commune that e representative of a single political pa power to spons or a n c a m e d a t e e n o t b e v e s t of the population of the commune or of represent the entire population.

143 He further argues that the mayor is of municipality and the present does political entire municipality. For the Applicant sponsor a candidate violates the principle that it excludes all other representative participation in the conduct of public

144 He further states that there is no Respondent State, as all deputies are explains that these deputies and a number of several other citizens of the Respondent citizens to pledge their allegiance to therefore believes that the sponsorship democratic government in Benin protect ACDEG.

145 Finally, the Applicant³⁹ of the state Court violates the right to freedom of religion and Article 18 of the ICCPR of the President of the Republic of the Nation a repository of" sovereignty

146 According to the Applicant, the text of the presidential oath, which considers as legitimate the belief as a citizen, he cannot be compelled to which is contrary to his own religious

³⁹Resulting from the constitutional amendment of 7 Nov

14 The Applicant finds that the election of President of the Respondent State in 2019, following a change of government by virtue of the *Constitution d'orientation et de supervision de l'administration* (COISEPI), the body in charge of compiling the Constitution, that this Court had ordered the reconstruction and holding of any election.

14 Finally, the Applicant asserts that despite the Respondent State to repeal the provisions of the constitutional amendment Code of the Respondent State, by Decision of the Constitutional Court of 21 January 2021, rejecting the Respondent State to that effect.

14 He concludes that the Respondent State is in violation of the ICCPR, Article 14(1) and Article 14(1) of the ACDEG and Article 1(i) of the ECOWAS Protocol.

15 The Respondents submit that the Respondent State is in violation of the ICCPR, Article 14(1) and Article 14(1) of the ACDEG and Article 1(i) of the ECOWAS Protocol.

* * *

15 The Court has⁴⁰ already held that the November 2019 violates Articles 9(1), 10(2) and 14(1) of the ICCPR and the ACDEG's repeal as subsequent laws in November 2019.

⁴⁰ *Houngue Éric Noudehouenou v. République de Bénin*, No. 003/04 December 2020 (Merits and Reparations) Rep. 88/66 and ACt HPR, Application No. 059/2019, Judgment of -27 November 2020, paras. 125, 179(xii).

152 The Court also ruled that by virtue of its not offering sufficient guarantees of independence under Article 17(2) of the ACDEG and Article 3 of the

153 The Court finds that the circumstances of the war are not otherwise.

154 The Court therefore considers it unnecessary to conclude that the amendment of the Constitution regarding the freedom of expression and religion

155 Accordingly, the Court finds that the violation of the stated rights

VIII. REPARATIONS

156 Article 27(1) of the Constitution provides that in the event of a violation of a human or peoples' right, the State shall be obliged to remedy the violation, including the

157 The Court recalls its previous judgment in considering claims for reparation for violations, it takes into account the position of the person found guilty of an internationally wrongful act and the damage caused to the

⁴¹ *ibid.* Republic of Benin

⁴² *Beneficiaries of the late Norbert Zongo, Abdoulaye Ilboudo and Mouvement Burkinabé des droits humains* (5 June 2015) 265 *XYZ*. 2 Republic of Benin Application No. 12345/2015, Judgment of 27 November 2020 (Merits and Reparations)

158 The Court established a direct causal link between the violation alleged and the burden of proof on the Applicant who must provide⁴³

159 The Court recalls that in order to do as possible, erase all the consequences of the state which would presumably have existed if the violation had not occurred. Moreover, depending on the particular case, reparation measures must include rehabilitation of the victims and other measures for violations, taking into account the circumstances⁴⁴

160 Furthermore, the Court established that reparation measures for damage resulting from a violation must take account of the circumstances of the case. The assessment of the damage is a case-by-case⁴⁵

161 The Court will consider that a violation of human rights has occurred if the state has failed to

162 In the instant case, the Court notes that the respondent state has violated Article 20 of the Charter; it has also violated Article 9(2) of the Charter and Article 10 of the Charter. The respondent state is required to comply with the Court's decisions.

⁴³ *ibid.*, § 140. *Republic of Benin*,

⁴⁴ *ibid.*, § 141.

⁴⁵ *ibid.*, § 142.

163 The Court at the Applicant seeks (A) pecuniary reparation.

A. On pecuniary reparations

164 The Applicant prays the Court to order a sum of One Billion (1,000,000,000) CFA francs until full compliance with the present interest of Five Hundred Million (500,000,000) CFA francs until full compliance with the Rulings of 5 March 2002 judgment of 4 December 2002 *Eric Noudéhouenou v Benin*

165 He further requests that the Respondent pay him Five Million (15,000,000) CFA francs in respect of costs, Five Hundred Thousand (500,000) CFA francs in respect of costs and Five Hundred Million (500,000,000) CFA francs in respect of damage he suffered as a result of the violation of his rights.

166 The Respondent submits the following requests:

i. Monthly lump sum interest.

167 The Court states that the Applicant requests the Respondent to pay him monthly a sum of Five Hundred Million (500,000,000) CFA francs in respect of interest until full compliance with the judgment in the present case and for not compliance with the Rulings of provisional measures of 5 March 2002 judgment of 4 December 2002 *Eric Noudéhouenou v Benin*.

168 The Court considers that the Respondent State's coercive measures, which would make it an enforcement contract⁴⁶ as⁴⁷ (2) of the requirements of the Court's decisions.

169 The Court notes that the Respondent State does not comply with the Court's decisions with measures

170 The Court dismisses the requests for lump

ii. Legal, mailing, communication and procedural costs

171 The Court notes that the Applicant does not claim the costs he incurred in respect of legal proceedings, mailing and communication. Moreover, these costs are free of charge in line with

172 Consequently, the Court dismisses the request for Fifteen (15,000,000) (CFA francs) in respect of legal costs, and Five Hundred Thousand (500,000) (CFA francs) in respect of mailing and communications claimed by the Applicant.

⁴⁶Article 29(2) of the Convention provides that the Court shall also monitor its execution on behalf of the States parties.
⁴⁷Article 30 of the Protocol provides: "The States parties to the judgment in any case shall, within the time specified, guarantee its execution".

iii. Moral prejudice

173 The Court recalls its jurisprudence by which the Applicant is presumed once the Court has found such that it is no longer necessary to establish a causal link between the violations and the damage. The Court has held that the assessment of the moral damage should be made on the basis of the circumstances⁴⁸ of each case.

174 In the instant case, the Court finds that the Applicant is entitled to compensation for the moral damage caused by the violation of his right to a fair trial and the enforcement of the Court's decisions.

175 The Court observes that the quantum of moral damage suffered by the Applicant in the present case must be determined on the basis of the mental anguish he must have suffered as a result of the measures taken by the respondent State in violation of the law as well as the failure to comply with the Court's decisions concerning the Applicant's property.

176 It notes that the Applicant's failure to comply with the Court's decision of 4 December 2020, *Nouveau Hounou Eric Noudéhouenou*, the Applicant's complaint to the Constitutional Council and the Parliament and the President of the Republic was a violation of the moral prejudice.

⁴⁸ Ibid, § 146.

⁴⁹ *Houngue Eric Noudéhouenou* v. République d'Haïti, Application No. 003/2020, 4 December 2020 (Merits), paras. 123-124. The Court ordered the respondent State to take all measures to ensure compliance with the provisions of the Constitution of 1990 on the right of citizens to participate freely and directly, without prior to any election.

177 For all these considerations, the Court awards the Applicant moral and material damage she suffered, in the amount of Five Million.

B. On non-pecuniary remedies

178 The Court recalls that the Applicant seeks all consequences arising from the fact that she was found guilty, in particular in relation to Article 20 of Law No. 2018 of the judicial branch of the Penal Code, the annulment of the death sentence and the obligation of the State to execute the decisions of the National Assembly.

179 The Respondent submits the following requests:

* * *

180 The Court will proceed to consider the claims that it cannot deny based on all the evidence that a human rights violation has been established.

i. The composition of the HJC

181 The Court recalls that the Applicant seeks the removal of the executive branch from the HJC, the absolute majority of the HJC and the HJC with democratically elected magistrates.

182 The Court notes that it has found a violation in the exercise of the executive's massive control over the judicial branch.

183 Consequently, the Respondent State measures to redress this structural and statutory and functionally consistent on one hand, by repealing the following provisions that make the President of the Republic a member of the HJC, and those that make members of the HJC and, on the other hand, the Supreme Council of the HJC.

ii. Article 410(3) of the Penal Code

184 The Court found that the Respondent State's opinion and expression protected by Article 19 of the ICCPR, by virtue of Article 4

185 The Court orders the Respondent State to bring Article 410(3) in line with Article and Article 19 of the ICCPR which guarantee expression with regard to decisions. com

iii. Annulment of the decisions of the Constitutional Court

186 The Applicant states that the order of the constitutional court is unconstitutional. The Constitutional Court of the Respondent State, by its decision of 24 January 2021, rejected the request to declare the impugned provisions of the Applicant requests the Court to annul the Court.

187 The Court recalls its jurisprudence that the power to reverse the decisions⁵⁰ of domestic

188 Accordingly, the Court dismisses the re

iv. Enforcement of the Court's decisions

189 The Court orders the Respondent State to Article 30 of the Protocol to the Rome Statute of the International Criminal Court, measures of 5 May and 25 September 2020 and 20 December 2020. Application of the Court's decision in *Uganda v. Republic of Uganda*

v. Reconstitution of the National Assembly

190 The Court recalls that the Applicant party to the National Assembly since the 2010 general elections, which were organised by the Independent Electoral and Boundaries Commission (IEBC) and under the leadership of the Constitutional Commission, which was established by the Electoral Commission on 15 November 2019, which before any election per the decisions of

191 The Court notes that the reconstitution of the National Assembly must first be dissolved

192 The Court notes that it has found in the past that violations relating to the

⁵⁰*Kijiji Isiaga v. United Republic of Tanzania and Reparations* (2019) 20 I.C.J. 113 (2019) § 84.

COSLEPI are moot. The Court further bases its decision on the illegitimacy of the National Assembly, or

193 The Court observes that Article 27(1) of the Constitution does not empower it to order a Respondent State to take any specific measures that it deems fit in a particular situation. In doing so, the Court is concerned with the gravity of the violations found, the impact on the entire electoral process and the impact on the peace, stability and development of the country.

194 The Court has in the present case, demonstrated the substantial impact of the violations on the entire electoral process. There is a clear impact on the parliamentary election process and an extension of the duration of the process is not an appropriate remedy.

195 Accordingly, the Court dismisses this request.

IX. ON THE REQUEST FOR PROVISIONAL MEASURES

196 The Court recalls the two requests for provisional measures, Application on the merits.

197 The Court however notes that the present requests are moot.

X. COSTS

198 The Applicant requests that the Respondent's costs of the proceedings

199 The Respondent does not submit its request

200 Under Article 312⁵¹ of the Rules of Procedure, the costs of the proceedings shall be borne by each party shall bear its own costs, if

201 The Court finds that there is nothing in the present case to warrant a departure from that principle

202 The Court therefore orders that each party shall bear its own costs

XI. OPERATIVE PART

203 For the reasons stated above,

THE COURT,

Unanimously

⁵¹Rule 30(2) of the Rules of 2 June 2010

On jurisdiction

- i. *Declares* that it has jurisdiction.

On admissibility

- ii. *Declares* the Application admissible.

On merits

- iii. *Finds* that the alleged violation of *ju* to information, freedom of opinion and expression, their right to form associations freely, and their right to freedom to assemble, protected respectively by Articles 8, 9, 10 and 11 of the Charter, is moot;
- iv. *Finds* that the Respondent State did not violate the right of citizens and judges to an effective remedy for the protection of their rights, protected by Article 7(1) of the Charter read together with Article 2(3)(a) of the ACDEG, Article 1(h) of the ECOWAS Protocol on Democracy and Article 8 of the UDHR;
- v. *Finds* that the alleged violations in connection with the constitutional amendment and with the Electoral Code are moot;
- vi. *Finds* that the alleged violations in connection with the COS-LEPI are moot.
- vii. *Finds* that the Respondent State violated Article 26 of the Charter in relation to the composition and functioning of the HJC;

By a majority of Ten (10) for, and One (1) against, Justice Dennis D. ADJEI Dissenting,

- viii. *Finds* that the Respondent State violated Article 30 of the Protocol by failing to comply with the Court's decisions;

Unanimously,

- ix. *Finds* that the Respondent State violated the right to freedom of opinion and expression in relation to Article 410(3) of the Criminal Code;

On reparations

Pecuniary reparations

By a majority of Ten (10) for, and One (1) against, Justice Chafika BENSAOULA Dissenting,

- x. *Dismisses* the request for the payment of Five Hundred Million (500,000,000) CFA francs as monthly lump sum interest for the enforcement of the Ruling on provisional measures of the 5 May and 25 September 2020, and the judgment on 4 December 2020 rendered in Application No. 003/2020-*Houngue Eric Noudehouenou v. Republic of Benin.*

Unanimously,

- xi. *Dismisses* the request for the payment of One Billion (1,000, 000, 000) CFA francs as monthly lump sum interest for non-enforcement of the judgment delivered in the instant case;
- xii. *Dismisses* the requests for reimbursement of the sums of Fifteen Million (15,000,000) CFA francs in respect of legal and procedural costs, and Five Hundred Thousand (500,000) CFA francs in respect of mailing and communication costs;
- xiii. *Orders* the Respondent State to pay the Applicant the sum of Five Million (5,000,000) CFA francs as reparation for moral damage

within six (6) months of notification of this judgment, failing which it will have to pay default interest calculated on the basis of the applicable rate of *Banque centrale d'Etats I'OU (BCEAO)* for the entire period of delay until full payment of the amount due.

Non-pecuniary reparations

- xiv. Dismisses the request for the reconstitution of Parliament;
- xv. *Dismisses* the request for annulment of the decisions of the Constitutional Court;
- xvi. *Orders* the Respondent State to take, within six (6) months of the notification of this judgment, all measures to make the structure of the HJC statutorily and functionally consistent with Article 26 of the Charter, on the one hand, by repealing the following provisions of the HJC organic law: those that make the President of the Republic a member of the HJC and Chair of the HJC, those that entitle the President of the Republic to appoint members of the HJC, and those that make other members of the executive members of the HJC and, on the other hand, by making the President of the Supreme Court Chair of the HJC.
- xvii. Orders the Respondent State to take, within six (6) months of the date of notification of this judgment, all measures to make Article 410(3) of the Criminal Code consistent with Article 9(2) of the Charter and Article 19 of the ICCPR, by guaranteeing freedom of opinion and expression in relation to criticism of judicial decisions;
- xviii. Orders the Respondent State to take all measures to comply with Article 30 of the Protocol by implementing the decisions rendered in Application No. 003/2020-*Houngue Eric Noudéhouenou v Benin*.

