

**AFRICAN UNION**

**الاتحاد الأفريقي**



**UNION AFRICAINE**

**UNIÃO AFRICANA**

**AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS**  
**COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES**

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**IN THE MATTER OF:**

**EKOLLO MOUNDI ALEXANDRE**  
**V.**  
**REPUBLIC OF CAMEROON**  
**AND**  
**FEDERAL REPUBLIC OF NIGERIA**

**APPLICATION No. 008 /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, Sylvain ORE - Judges; and Robert ENO- Acting Registrar,**

**In the matter of:**

**EKOLLO MOUNDI ALEXANDRE  
V.  
REPUBLIC OF CAMEROON  
AND  
FEDERAL REPUBLIC OF NIGERIA**

**After deliberations,**

***makes the following decision:***

- 1. By an application dated 20May 2011, EkolloMoundiAlexandre, domiciled in Douala (Cameroon), brought before the Court, a case against the Republic of Cameroon and the Federal Republic of Nigeria, alleging violation of Articles 3, 5, 6, 7 and 13(3) of the African Charter on Human and Peoples' Rights.**
- 2. Pursuant to Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, (hereinafter referred to as the Protocol) and Rule 8(2) of the Rules of Court (hereinafter referred to as the Rules), Judge Elsie N. Thompson, a member of the Court, of Nigerian nationality, recused herself.**

*N.G.*  


3. Pursuant to Rule 34(1) of the Rules, the Registry acknowledged receipt of the application in a letter dated 26 May, 2011.

4. By letter dated 10 June, 2011, the Registry sought to ascertain from the Legal Counsel of the African Union Commission, if the Respondent States had made the declaration envisaged under Article 34 (6) of the Protocol.

5. By letter dated 13 June, 2011, the Legal Counsel of the African Union Commission informed the Registry that neither Cameroon nor Nigeria had made the above-mentioned declaration; and at the same time attached a list on the status of ratification of the Protocol which indicates that Cameroon had not even ratified the Protocol.

6. The Court notes that Nigeria, a party to the Protocol, has not made the declaration and Cameroon has not even ratified the Protocol.

7. Article 5(3) of the Protocol provides that: "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".

8. Article 34(6) on its part 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".

9. Read together, the above provisions allow for the Court to be seized directly by an individual only when a Respondent State has made the declaration authorizing such seizure.

*NG*  
*(R)*

10. It therefore follows from Article 34(6) of the Protocol that the Court manifestly lacks jurisdiction to receive the application filed by Ekollo Moundi Alexandre against Cameroon and Nigeria.

11. Article 6(3) of the Protocol provides that the Court may consider cases or transfer them to the Commission. The Court considers from the allegations set out in the application that it would be appropriate to transfer the matter to the African Commission on Human and Peoples' Rights.

12. For these reasons,

THE COURT,

i. *Unanimously,*

*Decides*, that in application of Article 34 (6) of the Protocol, it manifestly lacks jurisdiction to receive the application filed by Ekollo Moundi Alexandre against Cameroon and Nigeria.

ii. *By seven votes to one,*

*Decides*, in application of Article 6 (3) of the Protocol, to transfer the matter to the African Commission on Human and Peoples' Rights.

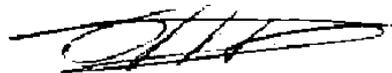
In favour: Gérard NIYUNGEKO, President; Sophia A.B. AKUFFO, Vice President; *Judges* Jean MUTSINZI, Bernard M. NGOEPE, Modibo T. GUINDO, Duncan TAMBALA and Sylvain ORE.

Against: Judge Fatsah OUGUERGOUZ

Done in Arusha, this Twenty-third day of September, Two Thousand and Eleven, in English and in French, the French version 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 decision.