

AFRICAN UNION

UNION AFRICAINE

الاتحاد الأفريقي



UNIÃO AFRICANA

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

**IN THE MATTER OF**

**ATABONG DENIS ATEMNKENG**

**v.**

**THE AFRICAN UNION**

**Application 014/2011**

**RULING**

**The Court composed of :** Sophia A.B AKUFFO, President , Fatsah OUGUERGOUZ, Vice-President; Bernard M. NGOEPE, Gérard NIYUNGEKO, Augustino S.L. RAMADHANI , Duncan TAMBALA , Elsie N. THOMPSON, Sylvain ORÉ, and El Hadji GUISSSE, Judges ; and Robert ENO – Registrar.

In the Matter of:

**ATABONG Denis ATEMNKENG**

*represented by Chief Charles TAKU*

v.

**The African Union**

*represented by the Legal Counsel of the African Union*

After deliberations,

*renders the following Ruling:*

1. The Applicant, Mr Atabong Denis Atemnkeng, citizen of Cameroon and staff of the African Union Commission, (hereinafter referred to as "the Applicant"), by application dated 18 October, 2011, received at the Registry of the Court on 1 December, 2012, seized the Court against the African Union, (hereinafter referred to as "the Respondent"), alleging that Article 34(6) 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"), is contrary to the African Union Constitutive Act and the African Charter on Human and Peoples' Rights, and as such an obstruction to justice and the rule of law, promotes impunity as it excludes sections of African citizenry

from access to justice, by placing human rights abusers above the law, and as such should be declared null and void.

2. Justice Ben Kioko, who previously dealt with the matter as Counsel for the Respondent, recused himself.
3. By letter dated 5 January, 2012, the Registrar acknowledged receipt of the application.
4. Pursuant to Rule 35(1) of the Rules of Court, the Registrar communicated a copy of the application to the President and other Members of the Court.
5. By letter dated 15 February, 2012, and pursuant to Rules 35(4)(a) and 37 of the Rules of Court, the Registry communicated the application to the Respondent, requesting it to indicate the name(s) of its representatives within 30 days and to reply to the application within 60 days.
6. Pursuant to Rule 35(3) of the Rules of Court and by letter dated 15 February, 2012, addressed to the Chairperson of the African Union Commission, the Registry informed the Executive Council of the African Union of the submission of the application as well as the States Parties to the Protocol.
7. By email dated 1 April, 2012, the Applicant submitted 'a supplement to the original case file'.
8. By letter dated 27 April 2012, received at the Registry on 20 May, 2012, the Respondent filed its notice of legal representative and its response to the application.

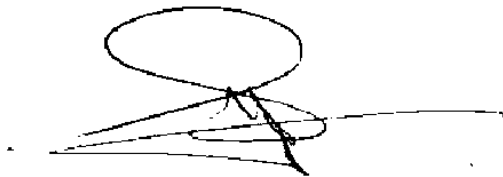
9. By letter dated 21 May, 2012, the Registry communicated the Respondent's response to the original application to the Applicant.
10. By letter dated 22 May, 2012, the Registry communicated to the Respondent the 'supplement to the original case file' submitted by the Applicant
11. On 11 June, 2012, the Registry received the reply of the Applicant to the Respondent's response, and on the same date communicated the reply to the Respondent
12. By letter dated 25 June, 2012, the Registry informed the parties that pleadings were closed and that they could request for leave to present additional submissions, if necessary.
13. By email dated 27 June, 2012, the Applicant submitted an application for leave to present additional submissions.
14. Without being granted leave by the Court, on 27 June, 2012, the Applicant presented additional submissions, of which the Registrar acknowledged receipt on 2 July, 2012.
15. Rule 50 of the Rules of Court provides that *"no party may file additional evidence after closure of pleadings except by leave of Court"*.
16. In view of the circumstances, the Court notes that the Applicant was not granted leave by the Court to file additional submissions as provided for under Rule 50 of the Rules of Court

17. Furthermore, the application for leave does not explain the basis for the additional submissions, and the submissions themselves do not provide any new elements.

18. In consequence whereof, the Applicant's application for leave to make additional submissions is hereby refused, because it is unfounded and in violation of Rule 50 of the Rules of Court.

Done in Port Louis, the Republic of Mauritius, this 7<sup>th</sup> day of December of the year Two Thousand and Twelve, in English and French, the French text being authoritative.

Signed



**Justice Sophia A.B. AKUFFO, President**

**Robert ENO, Registrar**

