

Case Adamou Moumouni DJERMAKOYE vs.

WAEMU Interparliamentary Committee

Community law - Lack of jurisdiction of the WAEMU Court of Justice

Summary of the judgment

Application by Mr Adamou Moumouni DJERMAKOYE, Member of the National Assembly of Niger, for the WAEMU Court of Justice to reinstate him as a Member of Parliament and a member of the WAEMU Interparliamentary Committee.

The parliaments of the Member States have, within the framework of the powers conferred on them by Article 35 of the Treaty, the sole power to appoint deputies as members of the Interparliamentary Committee. The internal organisation of this appointment cannot, therefore, be subject to judicial review by the WAEMU Court of Justice, as it does not fall within the scope of its powers as determined by Articles 1, 5 to 17 of Additional Protocol I relating to the supervisory bodies and Articles 14 and 15 of the Court's Rules of Procedure.

OPINION OF THE ADVOCATE GENERAL

By application lodged at the Registry of the Court of Justice of the West African Economic and Monetary Union and registered on 4 October 2001, the regularisation of which was requested on 26 October 2001 by the Registrar pursuant to Article 32 of the Statutes of the Court, but was not followed up, Mr Adamou Moumouni DJERMAKOYE lodged an appeal with the WAEMU Court of Justice seeking his reinstatement as a member of the WAEMU Interparliamentary Committee (CIP), on the grounds that after the dissolution of the National Assembly of Niger in December 1998, he was re-elected as a member of the National Assembly of Niger in December 1999 and should therefore be automatically reinstated as a member of the CIP.

In a letter dated 8 June 2001, the President of the IPC, whom he had previously referred to, invited him to contact the National Assembly of Niger, from which the IPC had received the list of the five members of the Niger legislature in accordance with Article 35 of the WAEMU Treaty and Article 5 of the IPC Rules of Procedure, in order to settle the matter.

No provision of the WAEMU Treaty gives the Court jurisdiction to hear such an action. Indeed, under the terms of Articles 1, 5 to 17 of Additional Protocol No. 1 and Articles 14 and 15 of the Rules of Procedure, the Community court only ensures compliance with the law as regards the application and interpretation of the WAEMU Treaty and only has jurisdiction in the following matters:

- Action for failure to fulfil obligations ;
- Action for assessment of legality ;
- Full competition litigation ;
- Labour disputes between UEMOA and its staff ;
- Extra-contractual liability claims by the Union against its agents, against third parties, and by agents against the Union ;

- Preliminary ruling ;

- Disputes between Member States relating to the Treaty if such disputes are submitted to the Court by virtue of a compromise ;

- Contractual liability of the Union if the terms of the contract confer jurisdiction on the Court ;

- The Court may issue opinions and recommendations on the compatibility of an international agreement with the provisions of the Treaty or on any difficulty of application or interpretation of the Treaty, at the request of the management bodies of WAEMU and the Member States.

The subject matter of the appeal manifestly exceeds the powers specified above.

The Court therefore lacks jurisdiction to rule on the appeal and should be able, in accordance with Article 78 of the Rules of Procedure, to rule without further proceedings, in particular without even serving the appeal on the defendant.

The unsuccessful claimant must be ordered to pay the costs.

The First Advocate General

Malet DIAKITE

JUDGMENT OF THE COURT

27 March 2002

Between

**Mr Adamou Moumouni DJERMAKOYE And
the UEMOA Interparliamentary Committee (C.I.P.)**

The Court, composed of Mr Yves D. YEHOUESSI, President and Rapporteur; Ms Ramata FOFANA, Judge; Mr Mouhamadou NGOM, Judge; Mr Malet DIAKITE, First Advocate General; Mr Raphaël P. OUATTARA, Registrar;

delivers this judgment :

Considering that by application dated 19 September 2001, received and registered at the Court Registry on 04 October 2001 under No. 02/2001, Mr Adamou Moumouni Djermakoye, Member of the National Assembly of Niger, residing in Niamey, without further particulars, requests the Court to reinstate him in his functions as Member of Parliament of the WAEMU Interparliamentary Committee (CIP);

Considering that the applicant, a national of the Republic of Niger, was a member of the Inter-Parliamentary Committee in 1997 ;

That, according to him, after the dissolution of the National Assembly of Niger in 1998 he was re-elected Deputy in December 1999; that consequently he asked the President of the IPC to allow him to resume his title of Deputy member of the IPC as well as the related rights;

That the President of the CIP invited him, by letter dated 08 June 2001, to address the National Assembly of Niger with a view to settling his claim; which he did by letter dated 05 July 2001, apparently without obtaining a favourable response;

Whereas Mr Adamou Moumouni Djermakoye maintains that his re-election in December 1999 as a member of the National Assembly of Niger, after its dissolution in 1998, should "automatically" entail his reappointment as a member of the IPC, "in accordance with the texts in force";

Considering that, pursuant to Articles 31 and 32 of the Statutes of the Court of Justice, the Registrar of the said Court, by letter dated 26 October 2001, invited the applicant to regularise his application by complying with the time-limit of two (2) months laid down for this purpose; that this letter, received on 29 October 2001 by Mrs Ibrahim on behalf of the applicant, was not acted upon after the time-limit had expired;

Considering that the Court must first rule on its jurisdiction to hear this case before examining the admissibility of Mr Adamou Moumouni Djermakoye's application;

Whereas the jurisdiction of the Court of Justice is determined by Articles 1, 5 to 17 of Additional Protocol No. 1 on the supervisory bodies and Articles 14 and 15 of the Rules of Procedure of the Court;

That none of the above-mentioned provisions confers jurisdiction on the Court to hear and determine an action of the kind raised, the nature of which, moreover, is not specified by the applicant;

Considering that under the terms of article 16 of the WAEMU Treaty "... the organs shall act within the limits of the attributions conferred upon them by the WAEMU Treaty and the present Treaty and under the conditions provided for by these Treaties..." ;

Whereas Rule 78 of the Rules of Procedure of the Court provides that "where the Court manifestly lacks jurisdiction to entertain an application or where the application is manifestly inadmissible, the Court, after hearing the Advocate General, may give judgment without further formality ..." ;

Under Article 14 of Regulation No 1/2000/CDJ repealing and replacing Regulation No 1/96/CDJ on the Administrative Rules of the Court of Justice, the Court may give judgment even before service of the application on the defendant;

Considering that the subject of Mr Adamou Moumouni Djermakoye's appeal is manifestly outside the remit conferred on the Court by the aforementioned texts; that consequently the Court has no jurisdiction to hear the said appeal;

Considering that the applicant should be ordered to pay the costs in the light of the foregoing;

FOR THESE REASONS

Ruling publicly in matters of Community law :

- Declares that it has no jurisdiction to hear the action brought by Mr Adamou Moumouni Djermakoye,
- Order him to pay the costs.