



Research Report

International Court of Justice

Certain Criminal Proceedings in France
(Republic of the Congo vs. France)

Student Officers:

Mirte van Dijk

Pien Pieterse

Stephanie Pater

Contemporaneity: All ICJ Court rulings on the matter are invalid (but there may be useful information in the ICJ documents), treat this case as if you are introducing the case in 2002 (original application date).

Introduction

The Republic of Congo accused France of 'arrogating to itself the power to prosecute and try the Minister of the Interior of a Foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country.' The Republic of Congo indicated that Article 38, paragraph 5, was overruled. As a result of this alleged violation, according to the Republic of Congo, the International Court of Justice became involved in this case.

Definition of key terms

Article 38, paragraph 5 – 'When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case.'

Article 89 – 1. If in the course of proceedings instituted by means of an application, the applicant informs the Court in writing that it is not going on with the proceedings, and if, at the date on which this communication is received by the Registry, the respondent has not yet taken any step in the proceedings, the Court shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. A copy of this order shall be sent by the Registrar to the respondent.

2. If, at the time when the notice of discontinuance is received, the respondent has already taken some step in the proceedings, the Court shall fix a time-limit within which the respondent may state whether it opposes the discontinuance of the proceedings. If no objection is made to the discontinuance before the expiration of the time-limit, acquiescence will be presumed and the Court shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. If objection is made, the proceedings shall continue.

3. If the Court is not sitting, its powers under this Article may be exercised by the President.

Article 101 – 'The parties to a case may jointly propose particular modifications or additions to the rules contained in the present Part (with the exception of Articles 93 to 97 inclusive), which may be applied by the Court or by a Chamber if the Court or the Chamber considers them appropriate in the circumstances of the case.'

General overview

The Republic of Congo opened a case against France accusing it of crimes against humanity and torture against certain Congolese people. Such as but not limited to; the President of the Republic of Congo, the Minister of Interior, Commander of the Presidential Guard. France was not allowed to exercise authority on the territory of another state and the Republic of Congo even submitted the request that France used police officers to examine The Present of the Republic of Congo as a witness in the case.

The Republic of Congo also requested 'an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux Tribunal de grande instance.'

Several years later in 2009, the Court gave permission (specifically related to Article 101) for an additional pleading by Congo and by France. In 2010, hearings were held when the Republic of Congo referred to article 89 and 'withdraw[ing] its Application instituting Proceedings.' They requested the Court 'to make an Order officially recording the discontinuance of the proceedings and directing the removal of the case from the List.'

Major parties involved

France

A country located in the east of Europe also known as the French Republic.

Republic of Congo

A country located in the east and centre of Africa. The Republic of Congo was officially a French Colony. In 1960 the Republic gained independence from France. In 1970 the People's Republic of the Congo was established which lasted until 1991 when a democratically government was elected.



Timeline

2002 – Republic of Congo filed an application against France

2003 – France agreed to entertain the application (of article 38 paragraph 5)

2003 – Hearings were held for the suspension

2003 – The Court concluded that there was no evidence against France

2004 – The Court fixed time limits for the memorial of the Republic of Congo and counter-memorial France

2004 – The Court authorized a reply by Congo and a rejoinder of France

2009 – The Court authorized another reply by Congo and a rejoinder of France

2010 – The Agent of Congo wrote a letter to withdraw its application

2010 – The Court deleted the case from its list

Bibliography

- <https://www.icj-cij.org/en/case/129>
- <https://en.wikipedia.org/wiki/France>
- https://en.wikipedia.org/wiki/Republic_of_the_Congo
- <https://www.icj-cij.org/files/case-related/129/129-20060701-WRI-01-00-EN.pdf>
- <https://www.icj-cij.org/files/case-related/129/129-20080811-WRI-01-00-EN.pdf>
- <https://www.icj-cij.org/files/case-related/129/129-20031204-WRI-01-00-EN.pdf>
- <https://www.icj-cij.org/files/case-related/129/7067.pdf>
- http://www.worldcourts.com/icj/eng/decisions/2003.06.17_criminal_proceedings.htm

