

Examples of Forum Prorogatum

International Court of Justice Press Release 2006/32

10 August 2006

The French Republic consents to the jurisdiction of the International Court of Justice to entertain an Application filed against France by the Republic of Djibouti

The Court enters the new case in its List

THE HAGUE, 10 August 2006. The French Republic yesterday informed the International Court of Justice (ICJ) that it consented, pursuant to Article 38, paragraph 5, of the Rules of Court (concerning proceedings wherein “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”), to the jurisdiction of the Court to entertain the Application filed against France by the Republic of Djibouti on 9 January 2006. Accordingly, the Court has entered this case between the Republic of Djibouti and the French Republic in its General List.

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In its Application of 9 January 2006, the Republic of Djibouti stated that it intended to found the jurisdiction of the Court on Article 38, paragraph 5, of the Rules of Court and was “confident that the French Republic will agree to submit to the jurisdiction of the Court to settle the present dispute”. In accordance with that Article, the Application by the Republic of Djibouti was transmitted to the French Government and no action was taken in the proceedings (see Press Release 2006/01). By letter dated 25 July 2006 and received yesterday in the Registry, the French Republic stated that it “consents to the Court’s jurisdiction to entertain the Application pursuant to, and solely on the basis of, Article 38, paragraph 5”. This consent has made it possible to enter the case in the Court’s List and to open the proceedings.

In its letter, France has specified that its consent to the Court’s jurisdiction is strictly limited to the “dispute forming the subject of the Application” and applies “strictly within the limits of the claims formulated therein by the Republic of Djibouti”.

Djibouti’s Application concerns “the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the ‘Case against X for the murder of Bernard Borrel’”. Djibouti maintains that the refusal constitutes a violation of France’s international obligations under the Treaty of Friendship and Co-operation signed by the two States on 27 June 1977 and the Convention on Mutual Assistance in Criminal Matters between France and Djibouti, dated 27 September 1986. Djibouti further asserts that, in summoning certain internationally protected nationals of Djibouti, including the Head of State, as *témoins assistés* [legally represented witnesses] in connection with a criminal complaint for subornation of perjury against X in the *Borrel* case, France has violated its obligation to prevent attacks on the person, freedom or dignity of persons enjoying such protection.