

SEPARATE OPINION OF JUDGE PARRA-ARANGUREN

The operative part of the Judgment should only reply to the final submissions of the Parties.

1. I have voted for the operative part of the Judgment, with the exception of point V (C), but my favourable vote does not mean that I share each and every part of the reasoning followed by the Court in reaching its conclusions.

2. I have voted against point V (C) of the operative part of the Judgment where the Court:

“Takes note of the commitment undertaken by the Republic of Cameroon at the hearings that, ‘faithful to its traditional policy of hospitality and tolerance’, it ‘will continue to afford protection to Nigerians living in the [Bakassi] Peninsula and in the Lake Chad area’.”

3. The reasons for my dissent are the following.

4. Very recently, on 14 February 2002, the Court stated:

“The Court would recall the well-established principle that ‘it is the duty of the Court not only to reply to the questions as stated in the final submissions of the parties, but also to abstain from deciding points not included in those submissions’ (Asylum, Judgment, I.C.J. Reports 1950, p. 402). While the Court is thus not entitled to decide upon questions not asked of it, the non ultra petita rule nonetheless cannot preclude the Court from addressing certain legal points in its reasoning.” (Arrest Warrant of 11 April 2000 (Democratic Republic of Congo v. Belgium), Judgment, I.C.J. Reports 2002, pp. 18-19, para. 43.)

5. Neither Cameroon nor Nigeria has requested the Court in its submissions to take note of the commitment undertaken by Cameroon at the hearings that “it will continue to afford protection to Nigerians living in the [Bakassi] Peninsula”. Therefore, in my opinion, the Court had to abstain from taking note of such commitment in the operative part of the Judgment, even though the Court is entitled to address it in its reasoning, as it did in paragraph 317 of the Judgment.

(Signed) Gonzalo PARRA-ARANGUREN.
