



Official Journal

Vol. 60
(CCJ)

of the Economic Community of
West African States (ECOWAS)

English Edition

2013

IN THE COMMUNITY COURT OF JUSTICE
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

HOLDEN IN ABUJA, NIGERIA

NOTICE OF REGISTRATION OF APPLICATIONS

CONTENTS	PAGE
<u>SUIT NO: ECW/CCJ/APP/01/13</u>	
<i>BETWEEN</i> MR. CHUDE MBA (<i>APPLICANT</i>) v. THE REPUBLIC OF GHANA (<i>DEFENDANT</i>)	3
<u>SUIT NO: ECW/CCJ/APP/02/13</u>	
<i>BETWEEN</i> L'ASSOCIATION DES TRAVAILLEURS PARTANTS VOLONTAIRES A LA RETRAITE (ATVR) (<i>APPLICANT</i>) v. REPUBLIC OF MALI (<i>DEFENDANT</i>)	6
<u>SUIT NO: ECW/CCJ/APP/03/13</u>	
<i>BETWEEN</i> FAROUK CHOUKEIR (<i>on behalf of SITEX</i>) (<i>APPLICANT</i>) v. REPUBLIC OF COTE D'IVOIRE (<i>DEFENDANT</i>)	8
<u>SUIT NO. ECW/CCJ/APP/04/13</u>	
<i>BETWEEN</i> OUMAR MARIKO (<i>APPLICANT</i>) v. REPUBLIC OF MALI (<i>DEFENDANT</i>)	11
<u>SUIT NO. ECW/CCJ/APP/05/13</u>	
<i>BETWEEN</i> MR MAMADOU BABA DIAWARA (<i>APPLICANT</i>) v. GOVERNMENT OF MALI (<i>DEFENDANT</i>)	13

**IN THE COMMUNITY COURT OF JUSTICE
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

HOLDEN AT ABUJA, NIGERIA

SUIT NO: ECW/CCJ/APP/01/13

BETWEEN

MR. CHUDE MBA APPLICANT

V.

REPUBLIC OF GHANA DEFENDANT

NOTICE OF REGISTRATION OF AN APPLICATION

NOTICE IS HEREBY GIVEN Pursuant to Article 13(6) of the Rules of the Community Court of Justice, ECOWAS that an Application between MR. CHUDE MBA (*APPLICANT*) AND REPUBLIC OF GHANA (*DEFENDANT*) was filed by the Applicant and Registered by the Court on the 21st day of January, 2013.

1. NAMES AND ADDRESSES OF THE PARTIES

The names and addresses of the parties are as follows:

a. MR. CHUDE MBA

No. 5, Iru Close, off Oyinkan Abayomi Drive,
Ikoyi, Lagos State.
Nigeria

} **APPLICANT**

b. REPUBLIC OF GHANA

c/o The Hon. Attorney-General
Through the Ghanaian High Commission,
Plot 301, Olusegun Obasanjo Street,
Area 10, Garki.
FCT, Abuja – Nigeria

} **DEFENDANT**

2. SUBJECT MATTER OF PROCEEDINGS

a) Defendant’s violation of the Applicant’s fundamental human rights as guaranteed under Articles 1, 2, 3(2), 6, 12 and 14 of the African Charter on Human and Peoples’ Rights; Articles 14, 15, 18 and 20 of the Constitution of the Republic of Ghana; and Articles 9, 10 and 17 of the Universal Declaration on Human Rights.

3. ORDERS SOUGHT BY THE APPLICANT

a) A Declaration that the persecution, harassment, intimidation, restriction and threatened incarceration of the Applicant by various government agencies in Ghana was unjust, arbitrary, unwarranted, unfounded unlawful, unconstitutional, null and void and a violation of the Applicant’s fundamental rights to personal liberty and security of his person.

b) A Declaration that the actions and activities of various government agencies in Ghana and their undue interference with and/or interest in the Applicant’s project were unjust, arbitrary, unwarranted, unlawful, unconstitutional, null and void and a clear flagrant violation of the Applicant’s fundamental right to property.

- c) A Declaration that the freezing order made by the Economic and Organized Crimes Office of Ghana over the various accounts of the Applicant's company is arbitrary, unjust, unfounded, unlawful, null and void and unconstitutional.
- d) An order directing the Defendant to pay the total sum of US\$ 25,000,000.00 (Twenty five Million USD) to the Applicant for damages suffered as a result of the infringement by the Defendant of the Applicant's fundamental rights to personal liberty, freedom from arbitrary arrest and detention, security of his person and right to own property.
- e) An injunction restraining the Defendant from further harassing, persecuting, interrogating and/or threatening to incarcerate the Applicant.
- f) An Order for unconditional and immediate discharge of the surety provided by the Applicant in the said sum of GHc 1 million to secure his release from the detention by the EOCO as no known charge(s) were or have been preferred against him before any competent Court of Law.
- g) An Order compelling the Defendant and its agency to forthwith discharge, release and lift the freezing order over the Applicant's company.
- h) Payment by the Defendant to the Applicant, of the total sum of US\$ 130,000 (One hundred and thirty thousand USD) being the cost of this action.

4. SUMMARY OF PLEAS-IN-LAW

- a) Whether from the facts and circumstances of this case, the continued persecution, harassment, intimidation, restrictions and threatened incarceration of the Applicant by various agencies of the Defendant are not arbitrary, unlawful and unconstitutional and thus an infringement of the Applicant's fundamental rights to personal liberty, arbitrary arrest and detention, and security of his person as guaranteed under Article 6 of African Charter on Human and Peoples' Rights, Article 9 of the Universal Declaration of Human Right and Article 14 and 15 of the Constitution of the Republic of Ghana.
- b) Whether the actions and activities of the various government agencies in Ghana and their undue interference with and/or interest in the Applicant's project were not arbitrary, unjust, unlawful and an attempt at expropriating the Applicant's property and thus an infringement on the Applicant's right to property as guaranteed under Article 14 of the African Charter on Human and Peoples' Rights, Article 17 of the Universal Declaration of Human Rights and Article 18 and 20 of the Constitution of the Republic of Ghana.
- c) Whether from the fact and circumstances of this case, the freezing order made by the Economic and Organized Crimes Office, an agency of the Defendant, over the various accounts of the Applicant's companies does not violate the provisions of Section 33, 34, and 35 of the Economic and Organized Crimes Act and is thus an infringement of the Applicant's right to property as guaranteed under Article 14 of the African Charter on Human and Peoples' Rights, Article 17 of the Universal Declaration of Human Rights, and Articles 18 and 20 of the Constitution of the Republic of Ghana.

5. SUMMARY OF THE MAIN SUPPORTING ARGUMENT

- a) The Applicant is a Nigerian citizen with dual nationality, being also a citizen of the United Kingdom of Great Britain. He avers that he commenced investment in Ghana in 2004 and in 2006 embarked on acquisition of land and the development of two blocks of luxury apartments. That he incorporated two companies in Ghana and obtained all the requisite permits for the development from relevant authorities in Ghana.

- b) The Applicant further avers that in 2009, when his property development was about 80% complete, he was directed to stop further construction on the project by a 'stop work order' issued by the Accra Metropolitan Authority.
- c) That he wrote a petition demanding the immediate reversal of the stop work order to which he received no reply. Instead, he was invited for interviews by various agencies of the Defendant, after which he was granted clearance to continue with the project.
- d) That shortly after work on the project resumed, the project was further interrupted as the Applicant received another letter informing him of further investigation to be conducted and also indicating the Defendant's intention to acquire prime portions of the Applicant's property development.
- e) That consequently, he addressed another petition to the office of the President of the Republic of Ghana and as with the first petition, was not replied. That instead, he was accused of money laundering, arrested and detained for several hours and only released on bail.
- f) That he has never been charged with any offence by the Defendant and the Defendant's agency that arrested and detained him, refused to provide him with any information or details as to the money laundering activities he was alleged to have been involved in.

DONE THIS 30th DAY OF JANUARY, 2013



Mr. Tony Anene-Maidoh, (Esq.)
Chief Registrar
Community Court of Justice, ECOWAS
Abuja- Nigeria.

**IN THE COMMUNITY COURT OF JUSTICE
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

HOLDEN AT ABUJA, NIGERIA

SUIT NO: ECW/CCJ/APP/02/13

BETWEEN

**L'ASSOCIATION DES TRAVAILLEURS PARTANTS
VOLONTAIRES A LA RETRAITE (ATVR) APPLICANT**

V.

REPUBLIC OF MALI DEFENDANT

NOTICE OF REGISTRATION OF AN APPLICATION

NOTICE IS HEREBY GIVEN, pursuant to Article 13 (6) of the Rules of the Community Court of Justice, ECOWAS that an application **BETWEEN L'ASSOCIATION DES TRAVAILLEURS PARTANTS VOLONTAIRES A LA RETRAITE (AVTR) (APPLICANT) v. REPUBLIC OF MALI (DEFENDANT)** was filed by the Applicant and Registered by the Court on the 15th February 2013.

1. NAMES AND ADDRESSES OF THE PARTIES

The names and addresses of the parties are as follows:

- | | | |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| a. | L'ASSOCIATION DES TRAVAILLEURS PARTANTS
VOLONTAIRES A LA RETRAITE
Known as AVTR, a group with legal personality.
Represented by Mariam Diawara,
lawyer at the Court in Darsalam
Rue 603, Porte 116, BP Bamako,
Republic of Mali, Tel/Fax: (+) 223 20 22 81 33 / (+) 22366 74 81 23; | } APPLICANT |
| b. | REPUBLIC OF MALI,
represented by the Minister of Economy and Finance,
in the person of the National Director for Area Council and
Litigation, situated at ACI 2000
Tel: (+) 223 20 29 67 11 | } DEFENDANT |

2. SUBJECT MATTER OF THE PROCEEDINGS

Violation of the Applicant's Fundamental Human Rights .

3. ORDERS SOUGHT BY THE APPLICANT

- a. AN ORDER for the Government of Mali to stop the alleged violation of their Fundamental Human Rights.
- b. PAYMENT of the sum of 10 million FCFA, by the Defendant to each Applicant for the alleged injuries suffered therein.

4. SUMMARY OF THE PLEAS IN LAW

- a. The Applicants claim that, they are former civil servants and officers of the Government of Mali. They had previously joined the voluntary retirement program initiated by the Government of Mali in 1985 with the financial assistance of the World Bank. They submit that a framework agreement exists between the Malian government and the World Bank and through which they must benefit from, by certain advantages. They argue that the Malian Government has not met its commitments vis-à-vis them.
- b. They rely on the following legal texts: Articles 9 (4) and 10 (d) of the Supplementary Protocol A/ SP.1/01/2005 amending Protocol A/P1/7/91, ECOWAS Court Judgment No. ECW/CCJ/JUD/02/10 of 14/05/2010, Articles 3 and 5 of the African Charter on Human and Peoples' Rights, Resolution 217 A (III) of 10/12/1948, Article 4 of the 1993 ECOWAS Revised Treaty, the Protocol on Democracy and Good Governance of 21/12/2001 and Article 51 of the Rules of Procedure of the Court.

5. SUMMARY OF THE MAIN SUPPORTING ARGUMENTS

- a. **ACKNOWLEDGEMENT** of the violation of their human rights by the Defendant, the Government of Mali, the Defendant.
- b. **ORDER** the Government of Mali to stop the violation of their human rights granting them their benefits, in line with the application of the provision of the agreement signed with the World Bank.

DONE AT ABUJA, THIS 20TH DAY OF FEBRUARY 2013



Mr. Tony Anene-Maidoh, (Esq.)
Chief Registrar
Community Court of Justice, ECOWAS
Abuja- Nigeria.

**IN THE COMMUNITY COURT OF JUSTICE
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

HOLDEN AT ABUJA, NIGERIA

SUIT NO: ECW/CCJ/APP/03/13

BETWEEN

FAROUK CHOUKEIR (on behalf of SITEX)..... APPLICANT

V.

REPUBLIC OF COTE D'IVOIRE DEFENDANT

NOTICE OF REGISTRATION OF AN APPLICATION

NOTICE IS HEREBY GIVEN, pursuant to Article 13 (6) of the Rules of the Community Court of Justice, ECOWAS that an application **BETWEEN FAROUK CHOUKEIR (APPLICANT) v. REPUBLIC OF COTE D'IVOIRE (DEFENDANT)** was filed by the Applicant and Registered by the Court on 15th February 2013.

1. NAMES AND ADDRESSES OF THE PARTIES

The names and addresses of the parties are as follows:

a. FAROUK CHOUKEIR (on behalf of SITEX):.....APPLICANT

Represented by **AQUEREBURU & PARTNERS**,

Legal and tax lawyers, Immeuble Alice 777,

Avenue Kleber DADJO, BP 8989,

TEL : 22 21 05 05 ; Telefax 22 22 01 58 ;

And, by **Mr Ibrahim Niang**,

Lawyer at the bar of Cote d'Ivoire,

Avenue A.6 du General DE GAULLE,

tel: (225) 20 32 74 54

b. REPUBLIC OF COTE D'IVOIRE..... DEFENDANT

Represented by the Minister delegated to the Prime Minister,

Department for Economics and Finance Madam KABA NIALE,

in the person of the **Judicial Officer** of the state

and public accounting, with office situated at

6th floor former BCEAO building,

Avenue TERRASSON FOUGERE au Plateau in Abidjan

B.P.V 98 ABIDJAN,

tel: (225) 20 25 38 48; (225) 20 21 60 32

2. SUBJECT MATTER OF THE PROCEEDINGS

Violation of the rights of the Applicant.

3. ORDERS SOUGHT BY THE APPLICANT

(a) A Declaration that the violation has seriously infringed on their budget.

(b) An Order for the Defendant to stop the violation of their rights.

- (c) One billion (1,000,000,000) CFA francs representing amount unduly paid to SGBCI S.A Company.
- (d) An Order for the payment of Seven billion (7,000,000,000) CFA francs as damages by the Defendant.
- (e) An Order for the Defendant to bear the cost of the Application.

4. SUMMARY OF THE PLEAS IN LAW.

- a) The Applicants aver that it is the outright violation of the principle of impartiality to a fair hearing and especially the right of every citizen to have recourse to an impartial judge. They also declare that, by this notorious malfunction of judicial public service, their economic rights have been violated, causing them some significant material damage. According to them, the government of Cote d'Ivoire through the judicial public service has infringed on their rights guaranteed by the relevant legal instruments.
- b) The Applicants aver that, SGBCI S.A informed them in February 1995, of the unilateral closure of their company account SITEX-CI (SARL), that SGBCI SA gave formal notice to SITEX- CI (SARL) to pay the sum of five hundred and sixty-one million forty eight thousand, eight hundred and ten (561, 048, 810) CFA francs representing the debit balance unilaterally determined and that of two hundred and eighty-eight million, nine thousand, seven hundred seventy-nine (282, 009, 779) francs CFA.
- c) The Applicant's however, disputed this purported belief of the SGBCI S.A which is why they assigned the latter for accountability. But SGBCI SA obtained two restraining orders to pay. They stated to have opposed the said injunctions. The Applicants also claim to have been condemned by judgment No. 126/2001 of 31 May 2001 to pay SGBCI S.A the sums of 505, 323, 160 FCFA and 166, 058, 424 FCFA. Following a call from the Applicants, this judgment was crippled, but the judgment obtained on appeal was quashed by the Supreme Court after the appeal of SGBCI S.A

The Applicants rose against the intervention of Master Acka Felix of the Bar of Cote d'Ivoire, that they do not recognize as being regularly constituted and which succeeded in having his name appear in the judgment on behalf of their opponent. They also claimed to have disqualified judges. The applicants claim that these judges sat on the first hearing and even sat on the panel that delivered judgment No. 659/2008 of 11/12/08 (this having quashed the judgment of the Court of Appeal)

Despite the notification of the motion for the disqualification to the President of the Judicial Chamber by the President of the Supreme Court of Cote d'Ivoire, and despite judgment No. 654/10 of 11/11/10, the said Chamber rejected the appeal against the withdrawal of judgment 659/2008 of 11/12/08.

The Applicants, therefore aver that the practice stated above is an outright violation of the principle of impartiality to a fair hearing and especially the right of every citizen to have recourse to an impartial judge. That by this notorious malfunction of judicial public service, their economic rights have been violated, causing them some significant material damage. According to the Applicants, the government of Cote d'Ivoire through the judicial public service has infringed on their rights guaranteed by the relevant legal instruments.

The Applicants rely on various texts which are: the preamble and Article 20 of the Ivorian Constitution of 2000, Articles 10 and 22 of the Universal Declaration of Human Rights, Article 6-1 of the European Convention on Human rights, Article 4 of the ECOWAS Revised Treaty, the preamble and Article 3 of the African Charter on Human and Peoples' Rights, Article 14 of the International Covenant on the Socio- Economic and Cultural Rights of 16 December, 1966.

DONE THIS 22ND DAY OF FEBRUARY, 2013



Mr. Tony Anene-Maidoh, (Esq.)

Chief Registrar

Community Court of Justice, ECOWAS

Abuja- Nigeria.

**IN THE COMMUNITY COURT OF JUSTICE
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

HOLDEN AT ABUJA, NIGERIA

SUIT NO: ECW/CCJ/APP/04/13

BETWEEN

OUMAR MARIKO..... APPLICANT

V.

REPUBLIC OF MALI..... DEFENDANT

NOTICE OF REGISTRATION OF AN APPLICATION

NOTICE IS HEREBY GIVEN, pursuant to Article 13 (6) of the Rules of the Community Court of Justice, ECOWAS that an application **BETWEEN OUMAR MARIKO (APPLICANT) v. REPUBLIC OF MALI (DEFENDANT)** was filed by the Applicant and Registered by the Court on 15th February 2013.

1. NAME AND ADDRESSES OF THE PARTIES :

The names and addresses of the parties are as follows:

a. OUMAR MARIKO APPLICANT

Represented by Mariam DIAWARA,
Lawyer at the Court in Bamako, Darsalam
Rue 603, porte 116. BP 696,
Tel/Fax + 223 20 22 81 33/ +223 66 74 81 23

b. REPUBLIC OF MALI,

in the person of his Excellency, Mr Dioukounda Traore,
acting President of the Republic
situated at Palais de la Presidence de la
Republique Koulouba,
Tel. (223) 20 22 75 15/ 20 23 00 29/ (223) 20 22 72 72/20 22 71 59

2. SUBJECT MATTER OF THE PROCEEDINGS

Violation of the electoral rights of the Applicant and compensation as damages, against the Defendant

3. ORDERS SOUGHT BY THE APPLICANT

- An Order for the Republic of Mali to stop the violation of his electoral rights.
- An Order for the Republic of Mali to pay such sum as the Court may deem fit, in the circumstance, as damages.
- An Order for the Republic of Mali to bear the cost of the suit.

4. SUMMARY OF THE PLEAS IN LAW.

- a. The failure of the President to meet the Constitutional provisions being the organizing of Presidential elections, slated not later than forty (40) days after notification of the judgment No.2012-001/CC/Vavances of 10 April 2012 by the Constitutional Court which allowed Mr Traore Diouncounda to function as acting President of the Republic of Mali without any hindrance.
- b. The breach of the rights of the Applicant as enshrined and guaranteed by Decision No. 2012-001/CC/Vavance of 04/10/2012 of the Constitutional Court of Mali; Article 3 of the African Charter on Human and Peoples' Rights, Article 7 of the Universal Declaration of Human Rights and the Citizen of 1789 and Article 25 paragraph b of the International Covenant on Civil and Political Rights of 16 / 12/1966.

5. SUMMARY OF THE MAIN APPLICATION.

- a. That the failure to organise presidential elections is a violation of his right as defined and guaranteed by the African Charter on human and people's Rights, Universal Declaration of Human Rights, Citizen of 1789 and International Covenant on Civil and Political Rights of 16 / 12/1966.
- b. That the action of the Defendant not to organise presidential elections, not later than forty (40) days after notification of the judgment No.2012-001/CC/Vavances of 10 April 2012 by the Constitutional Court amounts to a breach of his Rights as a legitimate citizen.

DONE AT ABUJA, THIS 15 DAY OF FEBRUARY 2013



Mr. Tony Anene-Maidoh, (Esq.)
Chief Registrar
Community Court of Justice, ECOWAS
Abuja- Nigeria.

**IN THE COMMUNITY COURT OF JUSTICE
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

HOLDEN AT ABUJA, NIGERIA

SUIT NO: ECW/CCJ/APP/05/13

BETWEEN

MR MAMADOU BABA DIAWARA.....APPLICANT

V.

GOVERNMENT OF MALI.....DEFENDANT

NOTICE OF REGISTRATION OF AN APPLICATION

NOTICE IS HEREBY GIVEN, pursuant to Article 13 (6) of the Rules of the Community Court of Justice, ECOWAS that an application **BETWEEN MR MAMADOU BABA DIAWARA (APPLICANT) v. THE GOVERNMENT OF MALI (DEFENDANT)** was filed by the Applicant and Registered by the Court on 19th February 2013.

1. NAMES AND ADDRESSES OF THE PARTIES

The names and addresses of the parties are as follows:

a. MR MAMADOU BABA DIAWARA:APPLICANTS

Is a Community Citizen from the Republic of Mali,
presently detained at the Central Prison in Bamako
and Represented by
Mariam Diawara, lawyer at the Court in Darsalam
Rue 603, Porte 116, BP
Bamako-Republic of Mali,
Tel/Fax: +223 2022 81 33/66 74 81 23;
Bamako – Mali

b. GOVERNMENT OF MALIDEFENDANT

A Member State of the Community,
Represented by His Excellency Diouncounda Traoré,
the acting President of the Republic,
in the person of the Minister of Justice in his cabinet
located in cite administrative-Bamako batiment 12,
3eme etage,
Tel: +223 44 90 19 32 BP 97 Bamako MALI

2. SUBJECT MATTER OF THE PROCEEDINGS

- a) Violation of the Applicant's fundamental rights to liberty and security of person.
- b) Arbitrary detention.
- c) Refusal of the Defendant to release the Applicant in line with the Decision of the Supreme Court of Mali.

3. ORDERS SOUGHT BY THE APPLICANT

- a) An order to end the arbitrary detention.
- b) An order for the immediate release of the Applicant by the Defendant.
- c) An Order that the Defendant pay damages to the Applicant.

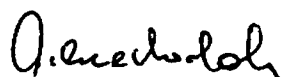
4. SUMMARY OF PLEAS IN LAW

- a) The Applicant alleges the violation of Article 7 of the Declaration of the Rights of Man and of the Citizen of 1789.
- b) The Applicant also alleges the violation of Articles 5 & 9 of the International Covenant on Civil and Political Rights of 1966.
- c) The Applicant equally alleges a violation of Article 6 of the African Charter on Human and Peoples' Rights.
- d) The Applicant finally states the alleged violation of the Malian Code of Criminal Procedure in its Articles 347 paragraph 2 and 348.

5. SUMMARY OF THE MAIN ARGUMENTS

- a) The Applicant, a former CEO of the Banque de l'habitat known as BHM, former inspector of the Banking Commission of WAEMU was sentenced to life imprisonment and has been kept in detention despite decision n° 53 of 27/05/2009 of the Supreme Court which exonerated him.
- b) The Applicant claims that, in violation of Articles 347 and 348 of the Malian Code of Criminal Procedure, the Defendant refused his release, while his cellmate was released, on the basis of the said decision.
- c) The Applicant finally alleges that, he is a victim of arbitrary detention and there is a violation of his right to a fair trial.

DONE THIS 22 DAY OF FEBRUARY 2013



Mr. Tony Anene-Maidoh, (Esq.)
Chief Registrar
Community Court of Justice, ECOWAS
Abuja- Nigeria.

