

UGANDA / JUDGMENT

Collectif Des Anciens Travailleurs du Laboratoire (ALS) v Republic of Mali (Application No. 002/2015) [2016] AfCHPR 59 (5 September 2016)

[2016] AfCHPR 59

COURT

African Court on Human and Peoples Rights

BEFORE

Ben Achour J, Bossa J, Eno R, Guissè J, Kioko J,
Matusse J, Niyungeko J, Orè J, Ouguergouz J,
Ramadhani P, Tambala J, Thompson VP

CASE / FILE NUMBER

Application No. 002/2015

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AFRICAN UNION

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE
L'HOMME ET DES PEUPLES

IN THE MATTER OF

SYNDICAT DES ANCIENS TRAVAILLEURS DU GROUPE DE LABORATOIRE
AUSTRALIAN LABORATORY SERVICES, ALS-BAMAKO (MORILA)

V.

REPUBLIC OF MALI

The Court Composed of: Augustino S. L. RAMADHANI, President, Elsie N. THOMPSON, Vice-President; Gérard N1YUNGEKO, Fatsah OUGUERGOUZ, Duncan TAMBALA, Sylvain ORÉ, El Hadji GUISSÉ, Ben KIOKO, Rafâa BEN ACHOUR, Solomy B. BOSSA, Angelo V. MATSSE, Judges; and Robert ENO, Registrar;

In the matter of

Syndicat des Anciens Travailleurs du Groupe de Laboratoire Australian Laboratory Services, ALS-Bamako (Applicant)

V.

Republic of Mali (Respondent)

After deliberations,

decides as follows:

- 1. The Applicant is the Syndicat des Anciens Travailleurs du Groupe de Laboratoire Australian Laboratory Services, ALS-Bamako (Morila), a private limited liability company operating in the mining sector and based in Bamako, Mali.
- 2. The Applicant is affiliated to the Fédération Nationale des Mines et de l'Energie (FENAME), which in turn is affiliated to the Confédération Syndicale des Travailleurs du Mali (CSTM).
- 3. The Respondent ratified the African Charter on Human and Peoples' Rights (hereinafter, referred to as "the Charter") on 21 December 1981 and deposited the instrument of ratification on 22 January 1982. The Respondent also ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter

I. Parties

referred to as "the Protocol") on 10 May 2000 and deposited the instrument of ratification on 20 June 2000. On 19 February 2010, it deposited the declaration accepting the competence of the Court to receive cases from individuals and non-governmental organisations, in accordance with Article 34(6) of the Protocol.

II. Subject of the Decision

- 4. On 29 December 2014, the Secretary General of the Fédération Nationale des Mines et de l'Energie (FENAME) seized the Court on behalf of the Applicant.
- 5. The initial Application was filed against the top management of the company. (The Applicant claimed that the employees had knowingly been leadcontaminated and unfairly dismissed, that the former workers asked for compensation for damages suffered and for the company to pay for their healthcare expenses as well as those of their families.

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- 17. At its 39th Ordinary Session, held from 9 to 20 November 2015, the Court directed the Registry to forward a letter to IHRF, requesting the latter to provide its response to the request for legal assistance within 15 days.
- 18. By a letter of 13 November 2015, the Registry asked IHRF to formally inform the Court of its decision regarding the request within 15 days.
- 19. By a letter of 13 November 2015, IHRF accepted to provide legal assistance to the Applicant.
- 20. In the same letter, IHRF reported that the Application on the payment of claims was being handled domestically, through an out-of-court settlement between the parties, and requested information regarding the Application on the lead poisoning.
- 21. By a letter of 3 December 2015, the Registry responded and informed IHRF, with the Applicant in copy, that there was only one Application before the Court, that of 16 February 2015, which had been submitted in replacement of the Application dated 29 December 2014, which the Court requested the Applicant to recast for lack of conformity to the Rules.
- 22. By a letter dated 7 December 2015, the Applicant informed the Registry that it was not aware of the agreement IHRF referred to in its letter dated 13 November 2015, given that the matter was pending before the domestic courts.
- 23. By a letter dated 11 December 2015, the Applicant requested the Court to withdraw the said Application on the lead poisoning because the domestic remedies had not been exhausted.
- 24. By a letter of 4 January 2016, the Registry reminded the Applicant that there was only one Application before the Court, that of 16 February 2015, which the Court had indicated needed to be recast and that the Applicant should do so with the assistance of a Counsel.
- 25. At its 40th Ordinary Session, held from 29 February to 18 March 2016, the Court instructed the Registry to draw the attention of the Applicant to the need to reformulate the Application so as to comply with the applicable provisions of the Protocol and the Rules, failing which the relevant provisions therein would be invoked.
- 26. By a letter of 21 March 2016, the Registry requested the Applicant, with its Legal Representative in copy, to approach the latter in order to recast the Application, so as to conform to the provisions of Rules 34 (1), (2) and (4) of the Rules of the Court, failing which the relevant provisions therein would be invoked.
- 27. By a letter of 4 May 2016, the Registry drew the attention of the Applicant, with its Legal Representative in copy, to the fact that it had not reformulated the Application, indicating that it should do so within 15 days, failing which the relevant provisions of the Rules of the Court would be invoked.

- 28. The Applicant did not submit the reformulated Application within the above referred time.

For these reasons,

- i. The Court notes that its decision to register the Application hinged on the premise that the deficiencies identified on the same would be rectified. To that end, the Court provided legal assistance to the Applicant through IHRF.
- ii. The Court notes that, even after having been provided with legal assistance, the Applicant has not reformulated the Application, notwithstanding successive extensions of time for it to do so.
- iii. The Court notes further that the various communications addressed to the Applicant and their Counsel were duly served at the designated addresses.
- iv. The Court concludes that the non-reformulation of the Application, in order for it to conform to the provisions of Article 34 (1), (2) and (4) of the Rules, points to a lack of interest on the part of the Applicant and their Counsel in pursuing the matter before the Court.

The Court, making use of its inherent powers, decides, unanimously, that the Application be and the same is hereby, struck out, without prejudice to the possibility of the Applicant submitting a new Application on the same matter.

Done at Arusha, this 5th days of September 2016, in English, French and Portuguese, the French version being authoritative.

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