

UGANDA / JUDGMENT

Sandwidi v Faso and Others [2020] AfCHPR 36 (15 July 2020)

[2020] AfCHPR 36

COURT

African Court on Human and Peoples Rights

BEFORE

About J, Anukam J, Ben Achour J, Bensaoula J,
Chizumila J, Eno R, Kioko VP, Matusse J, Mengue J,
Mukamulisa J, Tchikaya J

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THE MATTERS OF

**1. ELIE SANDWIDI V. BURKINA FASO REPUBLIC OF BENIN REPUBLIC OF COTE
D'IVOIRE REPUBLIC OF MALI**

APPLICATION No. 014/2020

AND

2. BURKINABE MOVEMENT FOR HUMAN AND PEOPLES' RIGHTS

V.

BURKINA FASO

AND

THREE OTHER STATES

APPLICATION No. 017/2020

ORDER (JOINDER OF CASES) 15 JULY 2020

J

The Court composed of: Ben KIOKO, Vice-President; Rafaa BEN ACHOUR, Angelo V. MATUSSE, Suzanne MENGUE, M-Therese MUKAMULISA, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAYA, Stella I. ANUKAM, Imani D. ABOUD - Judges; and Robert ENO, Registrar,

Pursuant to Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") and Rule 8(2) of the Rules of Court (hereinafter referred to as "the Rules"), Judge Sylvain ORE, President of the Court and a national of Cote d'Ivoire, did not hear the Application,

In the Matters of:

1. ELIE SANDWIDI

Self-represented

v.

**BURKINA FASO, REPUBLIC OF BENIN, REPUBLIC OF COTE D'IVOIRE AND
REPUBLIC OF MALI**

APPLICATION No. 014/2020

AND

2. BURKINABE MOVEMENT FOR HUMAN AND PEOPLES' RIGHTS (MBDHP)

Represented by its President, Chrysogone ZOUGMORE

v.

BURKINA FASO AND THREE OTHER STATES

APPLICATION No. 017/2020

After deliberation,

- 1. Considering the Application dated 24 February 2020 filed by Mr Elie Sandwidi (hereinafter referred to as "the First Applicant"), against Burkina Faso, the Republic of Benin, the Republic of Cote d'Ivoire and the Republic of Mali (hereinafter referred to as "the Respondent States"), and registered at the Registry of the Court on 3 March 2020.
- 2. Considering the Application dated 30 April 2020 filed by the Burkinabe Movement for Human and Peoples' Rights (hereinafter referred to as "Second Applicant"), against the Respondent States, and registered at the Registry of the Court on 11 May 2020.

- 3. Considering that, in its submissions of 2 May 2020 received at the Registry on 3 June 2020, the Republic of Mali requested, pursuant to Rule 54 of the Rules, the joinder of the two cases on the ground that the subject matter of the two applications was similar, namely, request for reinstatement or, alternatively, compensation of Elie Sandwidi; and thus, that the two disputes are sufficiently interrelated to allow the Court to examine them together.
 - 4. Considering that Rule 54 of the Rules provides that: "The Court may at any stage of the pleadings, either on its own volition or in response to an application by any of the parties, order the joinder of interrelated cases and pleadings where it deems it appropriate, both in fact and in law "
 - 5. Considering that it follows from the above-cited provision that the Court may exercise its discretionary power to order the joinder of cases where two or more cases which are not identical are brought before it, but are such that it is in the interest of proper justice to hear and determine them at the same time in order to avoid solutions which might be irreconcilable. Such joinder must be consonant not only with the principle of the sound administration of justice but also with the imperatives of judicial economy.^[1](#page-2-0)
- ¹ - ICJ, *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua),* Joint Cases, Order of 17/4/2013, § 18.
- 6. Considering that, in the present case, the fact remains that the said Applications are directed against the same Respondent States, namely: Burkina Faso, the Republic of Benin, the Republic of Cote d'Ivoire and the Republic of Mali.
 - 7. Considering, moreover, that the facts in support of the two Applications are similar in the sense that they arise from the recruitment of the First Applicant at the Court of Justice of the West African Economic and Monetary Union (CJ - WAEMU) and his dismissal, the legality of which he unsuccessfully challenged before the Advisory Committee of the WAEMU Commission *(WAEMU CCP),* the Council of Ministers and the Authority of Heads of State and Government of WAEMU as well as before the said Court.
 - 8. Considering, further, that the legal characterisation drawn from the facts is the same in both cases, in that the Applicants allege the same violations, that is, violation of the right to equal protection of the law, the right to respect for the inherent dignity of the human person, the right to be heard and the right to property, as enshrined in Articles 3(2), 5, 7 and 14 of the African Charter on Human and Peoples' Rights, respectively.
 - 9. Considering, lastly, that the Applicants have made the same requests on the merits and sought *pendente lite,* the same provisional measures.
 - 10. Considering that it follows from the foregoing that the joinder of these two cases is appropriate in fact and in law, pursuant to the above-mentioned article, and is consistent with the principles governing the proper administration of justice.

- 11. Considering that it is therefore appropriate to order the joinder of the cases filed by the First Applicant and the Second Applicant, against the same Respondent States, namely: Burkina Faso, the Republic of Benin, the Republic of Cote d'Ivoire and the Republic of Mali.

OPERATIVE PART

For these reasons,

THE COURT,

Unanimously, Orders

- i. Tie joinder of the above referred Applications and related pleadings.
- ii. That henceforth, the Applications shall be referred to as "Consolidated Applications No. 014/2020 and 017/2020 - Elie Sandwidi and Another v. Burkina Faso and Three Other States
- iii. The consequent upon the joinder, this Order and the pleadings relating to the above referred Matters shall be served on all the Parties.

Signed:

Ben KIOKO, Vice - President;

and

Robert ENO, Registrar.

Done at Arusha, this Fifteenth Day of July in the year Two Thousand and Twenty in English and French, the French text being authoritative.

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