AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

THE MATTER OF

SALIF TRAORÉ AND SÉKOU OUMAR COULIBALY

V.

REPUBLIC OF MALI

APPLICATION NO. 020/2018

JUDGMENT

26 JUNE 2025

TABLE OF CONTENTS

The Court, composed of: Chafika BENSAOULA, Vice-président ; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, , Blaise TCHIKAYA, Stella I. ANUKAM, Imani D. ABOUD, Dumisa B. NTSEBEZA, Dennis D. ADJEI, Duncan GASWAGA – Juges ; et de Robert ENO, Greffier.

In accordance with 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 9(2) of the Rules of Court (hereinafter referred to as "the Rules"),[1] Justice Modibo SACKO, President of the Court and a national of Mali, did not hear the Application.

In the matter of:

Salif TRAORÉ and Sékou Oumar COULIBALY

Represented by:

Boubacar M. M. COULIBALY and Oumar TOUNKARA,
Advocates of the Mali Bar Association

Versus

REPUBLIC OF MALI

Represented by:

General Directorate of State Litigation

After deliberation,

Renders this Judgment:

[1] Article 8(2) of the Rules of Procedure of 2 June 2010.

I. THE PARTIES

1. Salif Traoré and Sékou Oumar Coulibaly (hereinafter referred to as “the Applicants”), are both Malian nationals and police officers. They allege that the Minister of Internal Security and Civil Protection (hereinafter “Minister of Internal Security”) unlawfully refused to accept their applications as trainee superintendents for purposes of being upgraded to the officer corps pursuant to the Decree No. 06-053-/P-RM of 6 February 2006 setting out the special provisions applicable to the various corps of the National Police (hereinafter “Decree of 6 February 2006) issued by the president of the republic.

2. The Application is filed against the Republic of Mali (hereinafter referred to as “the Respondent State”), which became a Party to the African Charter on Human and Peoples’ Rights (hereinafter “the Charter”) on 21 October 1986 and to the Protocol on 20 June 2000. On 19 February 2010, it also deposited the Declaration provided for in Article 34(6) of the Protocol (hereinafter referred to as “the Declaration”), by virtue of which it accepts the Court’s jurisdiction to receive applications from individuals and Non-Governmental Organizations (hereinafter referred to as “NGOs”) which have observer status before the African Commission on Human and Peoples’ Rights (hereinafter referred to as “the Commission”).

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application that on 16 December 2002, the President of the Republic of the Respondent State promulgated Law No. 02-056 on the status of officers of the National Police.

4. In application of the said law, the government issued the Decree of 6 February 2006, whose articles 46 and subsequent articles set out the

transitional provisions applicable to the training of police officers.

5. Owing to the urgent need to expand the officer corps of the national police, the Respondent State's authorities opted for recruitment through internal promotion within the police force. Pursuant to the Decree of 6 February 2006, the Minister of Internal Security selected police officers with higher qualifications based on very specific criteria, in particular, 15 years' length of service in the police force and a qualification obtained before 31 July 2008.

6. Following the selection, officers who met the said criteria were identified and appointed as trainee police inspectors and superintendents.

7. It also emerges from the Application that the aforementioned Law No. 02-056 of 2 December 2002 was subsequently repealed by Law No. 10-034 of 12 July 2010 on the status of officers of the National Police.

8. On 13 June 2014, the Applicants wrote to the Minister of Internal Security regarding their situation but did not receive any response.

9. On 12 November 2014, the Applicants filed a petition before the Administrative Section of the Supreme Court against the Minister of Internal Security, seeking regularization of their administrative situation on the grounds that other police officers in the same legal situation as themselves had been appointed as trainee police inspectors and superintendents, in order to continue their training at the police academy. The Applicants aver that the act of treating some police officers differently as compared to others constitutes a violation of the principle of "equal treatment of citizens in access to public services". By Judgment No. 295 of 17 December 2015, the Administrative Section of the Supreme Court issued an order regularizing the Applicants' administrative situation.

10. On 27 January 2016, the General Directorate of State Litigation (hereinafter referred to as "GDSL") appealed the aforementioned decision, requesting

the Supreme Court to rule in favour of the Ministry of Internal Security. In its Appeal No. 0259, the GDSL challenged the Supreme Court decision on the basis of Article 3/71 of Organic Law No. 96-071/ RM-AN, published on 16 December 1996, on the organization and functioning of the Supreme Court. According to the GDSL, the Supreme Court erred by misapplying or misinterpreting the law. On 4 August 2016, the Administrative Section of the Supreme Court dismissed the appeal.

11. On 8 June 2017, the GDSL filed an application for review, in accordance with Article 256 of Law No. 046-2016 of 23 September 2016 on the organic law regulating the operations of the Supreme Court and the procedures followed before it. The GDSL reiterated its claims based on the Supreme Court's new jurisprudence in the case of *Broulaye Coulibaly et al*, Judgment No. 186 of 17 April 2016. According to this new ruling, "it is a general principle of civil service law that a civil servant cannot claim a right illegally granted to another; anyone claiming to hold a right must be able to justify it".

12. By judgment No. 412 of 10 August 2017, the Supreme Court annulled the two decisions previously handed down by its Administrative Section and dismissed the Applicants' appeal for lack of merit.

B. Alleged violations

13. The Applicants allege that the Respondent State violated their rights as follows:

    i. The right to equality before the law, protected by Articles 3(1) and (2) of the Charter and Article 26 of the International Covenant on Civil and Political Rights (hereinafter referred to as "ICCPR");
    ii. The right to have one's cause heard, protected by Article 7(1)(a) of the Charter and Article 14 of the ICCPR.

III. SUMMARY OF PROCEDURE BEFORE THE COURT

14. The Application was received at the Registry on 24 August 2018 and served on the Respondent State on 21 September 2018. The Respondent State filed its response on 10 December 2018.

15. The Parties filed their submissions within the stipulated timelines.

16. Pleadings were closed on 7 June 2019 and the Parties were duly notified.

IV. PRAYERS OF THE PARTIES

17. The Applicants request the Court to:

    i. Declare the Application admissible;
    ii. Find that the Application is well-founded;
    iii. Find that the Respondent State violated the right to equal treatment of persons in the same situation;
    iv. Find that the Respondent State violated their right to non-discrimination by regularizing the status of certain police officers while leaving the others to fend for themselves, which occasioned a denial of justice;
    v. Find that the Respondent State is responsible for these violations;
    vi. Declare that, by these decisions, the Respondent State violated the Applicants' procedural rights; and
    vii. Order the Respondent State to pay each of the Applicants the sum of Two Hundred and Fifty Million (250,000,000) Francs CFA as reparation.

18. The Respondent State on its part prays the Court to:

    i. Rule on the admissibility of the Application as it deems appropriate;
    ii. Dismiss the Application as unfounded; and
    iii. Order the Applicants to bear costs.

V. JURISDICTION

19. Article 3 of the Protocol states:

> 1. The Court has jurisdiction over all cases and disputes brought before it concerning the interpretation and Applicants of the Charter, the [...] Protocol, and any other relevant human rights instrument ratified by the States concerned.
> 2. In the event of a dispute as to whether the Court has jurisdiction, the Court will decide.

20. Under rule 49(1) of the Rules,[2] "[t]he Court shall make a preliminary examination of its jurisdiction [...] in accordance with the Charter, the Protocol and the [...] Rules".

21. In view of the foregoing, the Court must examine its jurisdiction and rule on any objections thereto.

22. The Court observes that, in the present case, the Respondent State does not raise any objection to its material, personal, temporal or territorial jurisdiction. However, in accordance with Rule 49(1) of the Rules, it must ensure that its jurisdiction is established in respect of all these aspects before proceeding to examine the Application.

23. As regards its material jurisdiction, the Court finds that it is established insofar as the violations alleged relate to Articles 3(1) and (2) and 7(1)(a) of the Charter, and Article 26 of the ICCPR.[3]

24. The Court's personal jurisdiction is also established insofar as the Respondent State is a party to the Charter and Protocol. It has also deposited the Declaration by virtue of which individuals and NGOs which have observer status with the Commission may bring cases directly before

[2] Article 39(1) of the Rules of Procedure of 2 June 2010.
[3] The Respondent State became a party to the ICCPR on 16 July 1974.

the Court.

25. As regards its temporal jurisdiction, the Court finds that it is established, insofar as the alleged violations were committed after the Respondent State became a party to the Protocol.

26. Lastly, the Court finds that it has territorial jurisdiction insofar as the alleged violations occurred on the territory of the Respondent State, which is a Party to the Charter and the other instruments of which a violation is alleged.

27. In view of the foregoing, the Court holds that it has jurisdiction to hear the present Application.

VI. ADMISSIBILITY

28. Under Article 6(2) of the Protocol, "[t]he Court shall rule on the admissibility of a case taking into account the provisions of Article 56 of the Charter".

29. Under rule 50(1) of the Rules of Procedure,[4] "[t]he Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6(2) of the Charter and these Rules".

30. Rule 50(2) of the Rules, which essentially restates the provisions of Article 56 of the Charter, provides:

> Applications filed before the Court shall comply with all of the following conditions:
>
> a. Indicate their authors even if the latter request anonymity;
> b. Are compatible with the Constitutive Act of the African Union and with the Charter;
> c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African

[4] Article 40 of the Rules of 2 June 2010.

Union;

d. Are not based exclusively on news disseminated through the mass media;
e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date the Court is seised with the matter, and;
g. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the Charter.

31. The Court notes that the Respondent State, without raising any specific objection, prays the Court "to rule as it deems appropriate on the admissibility of the Application". Nonetheless, the Court must satisfy itself that all the aforementioned admissibility requirements are met before proceeding to examine Application on the merits.

32. In this respect, the Court notes that, in accordance with Rule 50(2)(a) of the Rules, the Applicants have clearly indicated their identity. This requirement is therefore met.

33. The Court further notes that the Applicants' allegations seek to protect their rights guaranteed by the Charter and Constitutive Act of the African Union. Moreover, one of the objectives of the Constitutive Act of the African Union, as stated in Article 3(h) thereof, is the promotion and protection of human and peoples' rights. Furthermore, nothing in the record indicates that the Application is incompatible with the Constitutive Act of the African Union. Consequently, the Court considers that the Application is compatible with the Constitutive Act of the African Union and the Charter, and that it meets the requirement of Rule 50(2)(b) of the Rules.

34. The Court also observes that the Application does not contain any insulting or disparaging language against the Respondent State or its institutions, or

against the African Union, which makes it compliant with the requirement of Rule 50(2)(c) of the Rules.

35. The Court further considers that the Application meets the requirements of Rule 50(2)(d) of the Rules, since it is not based on news disseminated exclusively through the mass media, but rather on judicial decisions and legislative and regulatory provisions of the Respondent State.

36. With regard to the requirement of Rule 50(2)(e) of the Rules on the exhaustion of local remedies, the Court notes that, as it emerges from the record, the Applicants seized the Administrative Section of the Supreme Court to "regularize their administrative situation by registering them on the list of trainee inspectors or trainee police superintendents due to undergo training". This referral and the subsequent proceedings were the subject of various Supreme Court decisions.

37. The Court observes that the grievances raised in the present Application relate to issues of law that have been the subject of the proceedings initiated by the Applicants before the Respondent State's Supreme Court, which ruled thereon. The Court underscores that under Articles 110[5] and 111[6] of the Organic Law of 23 September 2016 on the organization and functioning of the Supreme Court, decisions handed down by the said court are not subject to appeal. Consequently, the Court considers that local remedies were exhausted.

38. The Court therefore holds that the Application meets the requirement of Rule 50(2)(e) of the Rules.

[5] Article 110: The administrative division is the supreme judge of all decisions handed down by lower administrative jurisdictions, as well as of decisions handed down in the final instance by administrative bodies with jurisdictional status.
[6] Article 111: The administrative section is competent to hear, in the first and last instance, appeals on grounds of ultra vires against decrees, ministerial or inter-ministerial orders and acts of national or independent administrative authorities.

39. With regard to the requirement under Rule 50(2)(f) of the Rules that the Application be filed within a reasonable time, the Court recalls that it has adopted a case-by-case approach to assessing what constitutes a reasonable time, having regard to the particular circumstances of each case.[7] The Court further recalls that it has consistently held that when the time being assessed is relatively short, as is the case in the instant Application, it considers such time to be manifestly reasonable.[8]

40. In the present case, the Court must determine whether the period of one year and 14 days that elapsed between 10 August 2017, the date of the last decision of the Respondent State's Supreme Court, the end point of the exhaustion of local remedies, and 24 August 2018, the date on which the present Application was filed, is a reasonable time. The Court observes that this time being assessed is relatively short and, as such, holds that such time is manifestly reasonable.[9] The Court therefore finds that the Application complies with the requirements of Rule 50(2)(f) of the Rules.

41. Finally, the Court notes that, in accordance with Rule 50(2)(g) of the Rules, the present Application does not concern a matter already settled by the parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, or the provisions of the Charter. Consequently, the relevant requirement is met.

42. In the light of the foregoing, the Court holds that all the admissibility requirements under Rule 50(2) of the Rules have been met and consequently declares the Application admissible.

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[7] *Armand Guéhi v. United Republic of Tanzania* (merits and reparations) (7 December 2018) 2 AfCLR 477, § 56; *Nguza Viking and another v. United Republic of Tanzania* (merits) (23 March 2018) 2 AfCLR 287, § 61.

[8] *Kija Nestory v. United Republic of Tanzania*, AfCHPR, Application No. 01/2018, judgment of 13 November 2024 (merits and reparations), §§ 40, 41; *Niyonzima Augustine v. United Republic of Tanzania*, AfCHPR, Application No. 058/2016, judgment of 13 June 2023 (merits and reparations), § 58.

[9] *Boubacar Sissoko and 74 others v. Republic of Mali* (merits and reparations) (2020) 4 AfCLR 641, § 53; *Lucien Ikili Rashidi v. United Republic of Tanzania* (merits and reparations) (28 March 2019) 3 AfCLR 13, § 56.

VII. MERITS

43. The Applicants allege: the violation by the Supreme Court and the Ministry of Internal Security of the right to equality before the law and to equal protection of the law guaranteed under Article 3 of the Charter (A), and violation of the right to have one's cause heard, protected by Article 7(1) of the Charter (B). The Court will examine these allegations sequentially.

A. Alleged violation of the right to equality before the law and equal protection of the law

44. The Applicants allege that the Respondent State, through the Ministry of Internal Security and the Administrative Section of the Supreme Court, violated their rights to equality before the law, equal protection of the law and non-discrimination, protected by Article 3(1) and (2) of the Charter and Article 26 of the ICCPR.

45. The Court observes that, despite the Applicants' allegations of a violation of Article 3(1) and (2) of the Charter, their Application only referred to a violation of their right to equality before the law by the Minister of Internal Security and the Supreme Court, protected under Article 3(1) of the Charter. The Court will therefore examine the allegations in respect of this provision, in relation to the Ministry of Internal Security, and then in relation to the Supreme Court.

46. The Court notes that Article 3(1) of the Charter provides that "every individual shall be equal before the law".

47. Article 26 of the ICCPR on its part provides:

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex,

language, religion, political or other opinion, national or social origin, property, birth or other status.

i. Alleged violation by the Minister of Internal Security

48. The Applicants allege that the Minister of Internal Security violated the principle of equality, by applying the police officers' promotion criteria in a discriminatory manner, pursuant to Decree No. 053/06 of 6 February 2006 and Article 125 of Law No. 034-10 of 12 July 2010.

49. They allege, without substantiating, that the police academy authorities upgraded police officers to the rank of trainee police superintendents, even though they obtained their diplomas subsequent to the issuance of the Decree of 6 February 2006.

*

50. In response, the Respondent State asserts that pursuant to the provisions of Article 155 of the Decree of 6 February 2006:

> Police inspectors and non-commissioned police officers holding a master's degree on the date of entry into force of this decree are authorized to enter the national police academy in successive waves according to seniority in rank and length of service to undergo training as Police superintendents.

51. The Respondent State therefore maintains that there is no ambiguity in the aforementioned Article 47, as the eligible officers are police inspectors and non-commissioned officers with the requisite qualifications on the date of entry into force of the aforementioned decree.

52. According to the Respondent State, as the Applicants obtained their qualification only in 2011 and 2012, they did not have the required qualifications at the date of the aforementioned decree and therefore could not claim to be entitled to admission to the police academy as trainee superintendents and inspectors.

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53. The Court notes that there is a correlation between equality before the law and the right to enjoy the rights enshrined in the Charter without discrimination, insofar as the entire legal structure of national and international public order is based on this principle, which governs the enjoyment of the other human rights.[10]

54. The Court also recalls that as it has previously held "it is incumbent on the Party purporting to have been a victim of discriminatory treatment to provide proof thereof".[11] In any event, vague assertions that a right has been violated are not sufficient.[12]

55. In the present Application, the Court notes that the Applicants allege that the Respondent State excluded them from the list of trainee police inspectors and superintendents whose training was authorized by the Decree of 6 February 2006, whereas some of their colleagues in the same situation as them were included on the said list.

56. The Court also notes that Article 47 of the Decree of 6 February 2006 lays down the conditions relating to the date of graduation and the length of service required to qualify for training as police superintendents and inspectors.[13]

57. It also emerges from the record submitted by the Applicants that they all obtained their qualifications after the date on which the aforementioned Decree came into force.

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[10] See *Open Society Justice Initiative v. Côte d'Ivoire*, African Commission on Human and Peoples' Rights, Communication 318/06, Decided on 28 February 2015; Inter-American Court of Human Rights, Advisory Opinion OC-18 of 17 September 2003; *African Commission on Human and Peoples' Rights v. Kenya* (merits), *supra*, § 138; *John Mwita v. United Republic of Tanzania,* AfCHPR, Application No. 044/2016, judgment of 13 February 2024 (merits and reparations), § 103.
[11] *Mohamed Abubakari v. United Republic of Tanzania* (merits) (3 June 2016) 1 AfCLR 599, § 153.
[12] *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 140.
[13] Article 47: "Police inspectors and non-commissioned police officers holding a master's degree on the date this decree comes into force are authorized to enter the national police academy in successive waves".

58. The Court further notes that the Respondent State, on the one hand, applied the criteria set out in the Decree of 6 February 2006, which is an instrument of general application, taking into account the status of the Applicants at the date of entry into force of the Decree. On the other hand, there is no evidence that the provisions of the Decree outlining criteria applied contain elements of inequality with regard to the Applicants who, in any case, have not demonstrated that they were treated differently and unfairly.

59. The Court further notes that the Applicants' allegation that some of their colleagues who were in the same situation were accepted as trainee police superintendents is not supported by any evidence. The Court observes, finally, that the Applicants have not adduced any evidence that they were not allowed to join the National Police Academy to train as superintendents or inspectors on account of their status, namely their race, colour, sex, language, religion, political or other opinions, national or social origin, property or descent, or other circumstances.

60. Consequently, the Court finds that the measures taken by the Ministry of Internal Security cannot be said to have violated the Applicants' rights to equality before the law and to non-discrimination, protected by Article 3(1) of the Charter read jointly with Article 26 of the ICCPR.

ii. Alleged violation by the Supreme Court

61. The Applicants allege that by failing to comply with its jurisprudence, the Administrative Section of the Supreme Court violated the principle of equality of all before the law.

62. They also point out that the Supreme Court dismissed their appeal, while granting the request for regularization submitted by their colleagues, who were in a similar situation with regard to the date of graduation, length of service and rank.[14]

[14] Supreme Court of Mali, Judgment No. 55 of 25 March 2010; Judgment No. 362 of November 2013, Judgment No. 93 of 17 April 2014.

63. The Applicants contend that the Supreme Court's decision breached the principle of equal treatment of persons in the same situation, namely, they and their colleagues, and therefore amounts to a violation of Article 3 of the Charter.

64. The Respondent State on its part contends that the Supreme Court reversed its decision when it realised that it had misinterpreted the law governing the training of national police officers.

65. It maintains that this jurisprudential reversal occurred well before the Applicants filed for appeal. The Respondent State points out that in its judgment No. 186 of 7 April 2016, the Supreme Court dismissed the Applicants' request for regularization and, for the first time, held that "it is a general principle of civil service law that one civil servant cannot claim a right unlawfully granted to another".

66. The Respondent State maintains that the Applicants wish to mislead this Court by claiming that all other officers enjoyed privileges, as if illegality were a source of accrued rights.

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67. The Court notes that the right to full equality before the law also implies that "all are equal before the courts and tribunals".[15] In other words, law enforcement authorities must perform their duties without discrimination, whatever the situation.

68. The Court observes that the principle of equality before the law does not mean that judicial institutions must necessarily deal with all cases in the same manner as the manner of handling a case may depend on the particular circumstances of each case.[16]

[15] *Kijiji Isiaga v. United Republic of Tanzania* (merits) (21 March 2018) 2 AfCLR 218, § 85.
[16] *Norbert Zongo and Others v. Burkina Faso* (merits) (28 March 2014) 1 AfCLR 219, § 167.

69. In this respect, the Court finds it relevant to refer to the position of the European Court of Human Rights, which noted that "the evolution of jurisprudence does not, in itself, conflict with the proper administration of justice, since to assert the contrary would be to fail to maintain a dynamic and evolving approach, which would impede any reform or improvement".[17]

70. In the present case, the Court notes that, although the Supreme Court's rulings referenced by the Applicants had the effect of regularising the situation of their colleagues, it is not disputed that the same court subsequently reversed its jurisprudence. Indeed, the Supreme Court premised the reversal of its precedent on the grounds that "it is a general principle of the Civil Service Act that a civil servant may not benefit from a right obtained by another person unlawfully; and that the person who claims to have a right is obliged to prove it".

71. The Court observes that in its ruling, the Supreme Court found that "the applicants underwent training to obtain a Master's degree without approval from the hierarchical authority, in accordance with Article 125 of Law No. 10-034 of 12 July 2010 on the status of national police officers". It is therefore based on the above that the Supreme Court, in its Judgment No. 186 of 7 April 2016, dismissed the Applicants' request for regularisation.

72. The Court notes that the Applicants do not contest the fact that they obtained their qualifications after the date of entry into force of the decree of 6 February 2006, and neither do they contest the fact that they did not obtain prior authorization from their hierarchical superiors. Insofar as the Supreme Court proceeded, without further consideration, to a different interpretation of the applicable law, and gave reasons for this reversal, the Court considers that the Supreme Court is fully entitled to develop its jurisprudence. This Court therefore finds that the Applicants were not

[17] *Micallef v. Malta*, Application No. 17056/06, judgment of 15 October 2009, § 51. See also *Boubacar Sissoko and 74 Others v. Republic of Mali* (merits and reparations) (25 September 2020) 4 AfCLR 641, § 73. *Tiékoro Sangaré and Others v. Republic of Mali*, AfCHPR, Application No. 007/2019, judgment of 23 June 2022 (merits), § 72.

treated unfairly or discriminated against in the proceedings before the Supreme Court.

73. Accordingly, the Court dismisses the allegation made in this regard and finds that the Respondent State did not violate the Applicants' right to equality before the law and equal protection of the law, protected by Article 3(1) of the Charter as read together with Article 26 of the ICCPR in relation to the proceedings before the Supreme Court.

B. Alleged violation of the right to have one's cause heard

74. The Applicants allege that the Supreme Court violated article 122 of the Code of Civil, Commercial and Social Procedure, which sets the time limit for appeals at 30 days that is considered a principle of public order. It is the Applicants contention that such breach constitutes a violation of Article 7 of the Charter.

75. According to the Applicants, the Supreme Court should have dismissed*, suo motu*, the appeal lodged by the Ministry of Internal Security.

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76. The Respondent State on its part argues that, under article 256 of Organic Law No. 046-2016 of 23 September 2016 on the organisation and operating rules of the Supreme Court, and the procedures followed before it, a rectification appeal "must be submitted within one month from the date of notification of the decision to be corrected".

77. The Respondent State also contends that, pursuant to Articles 761 and 782 of Decree No. 09-220/P-RM of 11 May 2009 amending the Code of Civil, Commercial and Social Procedure, the Applicants or their legal representative were required to serve the judgment on the Ministry's representatives, which they failed to do. It is the Respondent State's contention that, as service was not effected, the time-limits are still open.

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78. The Court notes that Article 7(1)(a) of the Charter provides:

> 1. Every individual shall have the right to have his cause heard. This comprises:
>
> (a) the right to an appeal to competent national organs against act violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;

79. The Court recalls that the right to have one's cause heard affords the individual a bundle of rights relating to the legality of the judicial procedure, including the right to be afforded the opportunity to express one's point of view on cases and procedures affecting one's rights; the right to seize competent judicial and quasi-judicial bodies when these rights are violated; and the right to appeal to higher instances when one's grievances are not adequately examined by lower courts.[18] As such, the right to have one's cause heard, as provided for in Article 7 of the Charter, requires that an applicant take part in all hearings relating to his case and to present his evidence in accordance with the rules of adversarial proceedings.[19]

80. With regard to the allegations concerning proceedings before national courts, the Court reiterates its jurisprudence in *Alex Thomas v. United Republic of Tanzania*,[20] that "[t]hough this Court is not an appellate body with respect to decisions of national courts, this does not preclude it from examining relevant proceedings in the national courts in order to determine whether they are in accordance with the standards set out in the Charter or any other human rights instrument ratified by the State concerned. With regard to manifest errors in proceedings before national courts, this Court

[18] *Werema Wakongo Werema and Werema v. United Republic of Tanzania* (merits) (07 December 2018), § 69*, Jebra Kambole v. United Republic of Tanzania* (judgment) (15 July 2020) 4 AfCLR 466, § 96; *Ibrahim Ben Mohamed Ben Ibrahim Belguith v. Republic of Tunisia*, Application No. 017/2021, judgment of 28 September 2022 (merits and reparations), § 96.
[19] *Anaclet Paulo v. United Republic of Tanzania* (merits) (21 September 2018) 2 AfCLR 446, § 81.
[20] *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 130.

examines whether the national courts applied appropriate principles and international standards in rectifying the errors. This approach has been adopted by similar international courts".

81. It emerges from the present Application that the Applicants did not attach the proof of service of the Decision No. 420 of 04/08/2016 issued by the Administrative Section of the Supreme Court to the Ministry, from which begins the calculation of the thirty-day period stipulated in Article 256 above of Organic Law No. 2016/046 of 23 September 2016 determining the organisation and rules of work of the Supreme Court and the procedures followed before it. The time-limit for appeal therefore remains open and as such, the national courts cannot be faulted with regard to the manner in which they applied the law. As the decisions handed down in the proceedings referenced do not reveal any denial of justice, this Court considers that it has no reason to intervene or call them into question.

82. The Court therefore dismisses the Applicants' allegation that the Respondent State's domestic courts violated Article 122 of the Code of Civil, Commercial and Social Procedure.

83. Consequently, the Court holds that the Respondent State did not violate the Applicants' right to have their cause heard, guaranteed by Article 7(1)(a) of the Charter.

VIII. REPARATIONS

84. The Court notes that under Article 27(1) of the Protocol, "[i]f the Court finds that there has been violation of a human or peoples' right, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation".

85. The Court notes that having found that the Respondent State did not violate any of the Applicant's rights, it has no basis to grant reparations.

86. The Court therefore dismisses the Applicants' prayers for reparations.

IX. COSTS

87. The Applicants do not make any submissions on costs. The Respondent State on its part prays the Court to order the Applicants to bear the costs.

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88. The Court notes that Rule 32(2) of the Rules of Court provides that: "unless otherwise decided by the Court, each party shall bear its own costs, if any".

89. The Court notes that the proceedings before it are free of charge, and that while the Respondent State prays that the Applicants should bear the costs, it does not provide evidence of having incurred any costs.

90. In the circumstances, the Court considers that there is no reason to depart from the provisions of Rule 32(2) of the Rules. Accordingly, the Court decides that each party shall bear its own costs.

X. OPERATIVE PART

91. For these reasons,

THE COURT,

Unanimously,

On jurisdiction

i. *Declares* that it has jurisdiction.

On admissibility

ii. *Declares that* the Application is admissible.

On merits

iii. *Holds* that the Respondent State did not violate the Applicants' right to equality before the law and non-discrimination, protected by Article 3(1) of the Charter as read jointly with Article 26 of the ICCPR;

iv. *Holds* that the Respondent State did not violate the Applicants' right to have their cause heard, protected by Article 7(1)(a) of the Charter.

On reparations

v. *Dismisses* the Applicants' prayers for reparations.

On costs

vi. *Orders that* each Party shall bear its own costs.

Signed by:

Chafika BENSAOULA, Vice-Presidente;

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Blaise TCHIKAYA, Judge

Stella I. ANUKAM, Judge;

Imani D. ABOUD, Judge;

Dumisa B. NTSEBEZA, Judge;

Dennis D. ADJEI, Judge;

Duncan GASWAGA, Judge,

and Robert ENO, Registrar.

Done at Arusha, this Twenty-Sixth Day of the month of June in the year Two Thousand and Twenty-Five, in Arabic, English and French, the French text being authoritative.