

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
<b>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</b> <b>COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</b>		

**APPLICATION No. 042/2016**

**COLLECTIF DES ANCIENS TRAVAILLEURS DU LABORATOIRE ALS**

**v.**

**REPUBLIC OF MALI**

**I. THE PARTIES**

1. The *Collectif des anciens travailleurs du laboratoire ALS* (hereinafter referred to as “the Applicants”) are an informal group of one hundred and thirteen (113) out of one hundred and thirty-five (135) former workers of the Australian Laboratory Services (ALS), a limited liability company, all domiciled in Mali.
  
2. The Respondent State is the Republic of Mali which became a party to the African Charter on Human and Peoples’ Rights (hereinafter referred to as “the Charter”) on 21 October 1986 and to 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”) on 24

January 2004. The Respondent State, filed on 19 February 2010, the declaration through which it accepts the jurisdiction of the Court to receive applications from individuals and Non- Governmental Organisations.

## **II. SUBJECT MATTER OF THE APPLICATION**

3. It emerges from the file the Australian Laboratory (ALS), who specialised in the chemical analysis of samples to determine the content in gold and other metals, used toxic products in the process, such as acids, cethon Di-iso Buthyl (DIBK), solvents such as nitrate, sodium, lithium, borax, sodium carbonate and sodium di oxide and lead.
4. According to the Applicants, “ ...the technique used by the ALS at the site in Koulouba in the search for gold consisted in “lead fusion”, a technique which by its very definition exposes the workers to very highly toxic chemical products, amongst them, lead which is used in large quantities in the dissolving process ».
5. The Applicants affirm that it was only from the year 2008 (nearly 12 years after the laboratory was taken over by ALS), and after several applications and protests by the workers that blood tests were finally conducted on them.
6. The Applicants allege that "the results of the initial biological analyses were retained by the management of ALS. They refused to reveal the results of the said blood tests to the workers or only gave them the results only much later". They further affirm that “At that time, workers were already complaining to management about severe headache and other disorders which they felt was related to the chemicals to which they were exposed (back pain, swollen organs, respiratory disorders, sexual impotence, etc.)”.
7. The Applicants further affirm that since 2009, the year the workers became aware of the contamination, they have continuously made claims from management, this

was followed by a wave of dismissals which continued until the activities of the company in the Respondent State stopped.

8. The Applicants allege that a confidential report of a mission of enquiry conducted at the behest of the Ministry of Health of the Republic of Mali revealed on the 13th of November 2013 that there was a gross violation of the rules of hygiene and safety; and

« ..Excessively high levels of lead present in the blood of the workers even beyond the threshold of 400 g/l between 2008 and 2013 (see the lead contamination form attached). Allegations made by some workers and their trade union were confirmed in bulk by blood tests before the strike action of February 2013. The treatment of some of the cases requiring intensive care was not conducted regularly».

9. The Applicants contend that « ...unfortunately officials have always refused to publish the report » claiming that « *the inspection reports are destined only for the Presidency and the Prime Ministers' Office*».

10. According to the Applicants, the workers and the Malian confederation of trade union of Miners (CSTM) spared no effort in bringing the management of ALS and the government of Mali to adopt measures aimed at providing medical care and insurance for the victims, but these efforts were all in vain.

11. The Applicants allege that all efforts to obtain reparation from management having failed, on 1<sup>st</sup> February 2012, they seized the Prosecutor General of the Republic of Mali of a criminal matter, denouncing lead contamination and over a year later, having received no information from the State Prosecutor on the progress made in the application from the State Prosecutor, they concluded that, that procedure was unduly prolonged by the judicial authorities of the Respondent State. Accordingly, they decided to seize this Court with the matter.

### **III. Alleged violations**

12. The Applicants assert that their rights to the enjoyment of the highest attainable standard of health set out in Articles 16 and 24 of the Charter and 12 of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as "the ICESCR"), have been violated.

13. They submit that the undue delay in the examination of the case constitutes a violation of their rights under Articles 7(1) and 26 of the Charter and Articles 2(3) and 14 of the International Covenant on Civil and Political Rights (hereinafter referred to as "the ICCPR").

### **IV. PRAYERS OF THE PARTIES**

14. In the Application, the Court was prayed to take the following measures:

- i. admit the Application and declare that the Respondent State has violated the afore-mentioned provisions;
- ii. rule that the Respondent State must publicly acknowledge its responsibility not only for the alleged violations from the occupational illnesses suffered by the Applicants as a result of lead poisoning, but also for the right to medical treatment of the contaminated employees and to bear the costs of the said treatment in a way that offers sick workers, the best possible living conditions;
- iii. order the Respondent State to conduct an investigation to identify the private institutions responsible for violating the regulations in force at the time of the alleged facts, that is, intoxication and non-assistance to persons in danger;

- iv. order the Respondent State to forthwith pay cash compensation to the victims and ensure that the amounts due are fully paid to them;
- v. order such other measures deemed necessary to remedy the alleged violations;
- vi. order the Respondent State to publish the judgment of the Court in the Official Gazette and in local dailies.

15. In their observations on reparations, the Applicants prayed the Court to order the Respondent State to pay:

- i. Fifty million (50,000,000) CFA Francs to each of the victims as compensation for medical expenses, loss of income arising from the dismissal or sick leave, occupational illness, funeral expenses and loss of income for their beneficiaries; and
- ii. Fifty million (50,000,000) CFA Francs to each of the victims for the direct and indirect moral damages suffered.

16. In its Response, the Respondent State prayed the Court to:

- i. On the form, declare the Application inadmissible as the Applicants lack legal capacity to seize the Cour and for failure to exhaust local remedies; or
- ii. On the merits, dismiss the Application as unfounded ".