

IBRAHIM TOURE v. THE REPUBLIC OF MALI

APPLICATION NO. 031/2020

**JUDGMENT ON THE
MERITS AND REPARATIONS**

24 SEPTEMBER 2026

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Arusha, 24 September 2026, the African Court on Human and Peoples' Rights (the Court) rendered a judgment in the case of *Ibrahim Touré v. the Republic of Mali*.

On 7 August 2020, Ibrahim Touré (the Applicant) filed an Application with the Court against the Republic of Mali (the Respondent State). He alleged violation of the following rights: the right to respect for dignity and the right not to be subjected to torture or cruel, inhuman and degrading treatment, protected by Article 5 of the African Charter on Human and Peoples' Rights (the Charter) and Article 1 of the Universal Declaration of Human Rights (UDHR); the right to non-discrimination, protected by Article 2 of the Charter, Article 26 of the International Covenant on Civil and Political Rights (ICCPR) and Article 2 of the UDHR; and the rights to equality before the law and to equal protection of the law, protected by Article 3 of the Charter and Article 7 of the UDHR.

The Applicant prayed the Court as follows: declare the requests to be in order and well-founded and to grant them; order the cessation of the unjustified and unlawful deductions, subject to a penalty payment of One Hundred Thousand (100,000) F CFA francs per month of delay from the date of the judgment; order full refund of the deducted amounts, in addition to interest legally due amounting to Two Million Five Hundred Thousand (2,500,000) CFA francs; order his unequivocal withdrawal from this compulsory health insurance (AMO) scheme; order compensation in the amount of Three Million (3,000,000) CFA francs for all causes of loss combined; and order the Respondent State to pay all costs.

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For its part, the Respondent State prayed the Court to rule as appropriate on the admissibility of the Application, to dismiss it as unfounded, and to order the Applicant to bear all costs.

No objection was raised regarding the Court's jurisdiction. However, the Court satisfied itself that all requirements were met in respect of all aspects of its jurisdiction. In this regard, it examined, successively, its material, personal, temporal and territorial jurisdiction, and found that all the requirements were met. The Court therefore declared that it has jurisdiction to hear the Application.

No objections were raised regarding admissibility. However, the Court satisfied itself that all admissibility requirements were met. In this regard, it examined successively the requirements under Rules 50(2)(a), 50(2)(b), (c), (d), 50(2)(e), (f) and (g) of the Rules and found that they were met. The Court therefore declared the Application admissible.

On the merits, regarding the violation of the right to dignity, the Applicant argued that since 2009, without his consent, regular deductions have been made from his salary and paid into the National Health Insurance Fund (CNAM) in respect of mandatory health insurance. He considered that these deductions, and consequently the losses and loss of earnings they caused him over the past twelve years, caused him and his family significant psychological suffering. He contended that this psychological suffering amounted to torture, violating his right to dignity as protected by Article 5 of the Charter and Article 1 of the UDHR.

The Respondent State, for its part, argued that it could not be faulted given that the Applicant, like any civil servant, was an automatic member of the AMO scheme and that the relevant contributions were deducted from his salary in accordance with Decree No. 10-601/P-RM of 18 November 2010 setting the contribution to the AMO scheme and that, furthermore, the Applicant did submit his request to opt out after the deadline for doing so had passed.

The Court noted that the Applicant's allegation were twofold, namely, compulsory deductions made from his salary without his consent, and psychological suffering which, according to him, amounted to torture. Regarding the first claim, the Court linked this issue to the right to health protected by Article 16 of the Charter. It held that mandatory health insurance guaranteed the effective enjoyment of this right by pooling risks, and that the principle of national solidarity

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takes precedence over individual consent, unless such deductions jeopardise one's ability to meet basic needs. In this case, the Court found that the deduction made from the Applicant's salary did not jeopardise his right to a dignified existence. Consequently, it dismissed this ground. The Court then dismissed the second request on the grounds that the Applicant provided no evidence of the existence or severity of the alleged suffering. In conclusion, the Court held that the Respondent State did not violate Article 5 of the Charter.

Regarding the alleged violation of the right to non-discrimination and the right to equality before the law, the Applicant argued that the AMO law was discriminatory and violated the right to full equality before the law insofar as it did not apply to all citizens, but only to employees. He concluded that there was a violation of Articles 2 and 3 of the Charter, Article 26 of the ICCPR and Articles 2 and 7 of the UDHR.

The Respondent State prayed the court to dismiss the allegation, arguing that the AMO law was impersonal and applied to all employees in both the public and private sectors within the meaning of the Labour Code.

The Court reiterated that the right to non-discrimination is linked to the right to equality before the law, but that this principle does not require identical treatment in all circumstances. It stated that differential treatment is permissible if it pursues a legitimate aim, is proportionate, and is not discriminatory in nature. It also clarified that, in assessing if such a differentiated treatment complies with Articles 2 and 3 of the Charter, it applied three cumulative criteria: the existence of an objectively different situation between the categories concerned, the pursuit of a legitimate aim, and proportionality of the means and the objective.

With regard to the first criterion, the Court observed that by virtue of their relationship of subordination and the nature of their remuneration, public and private sector employees are in a legal and economic situation distinct from that of self-employed persons. Recalling the margin of discretion accorded to the legislature in this matter, it emphasised that this objective difference justifies a legislative approach specific to this category. As regards the legitimate aim pursued, the Court considered that applying a specific scheme to a particular category of persons does not, in itself, constitute discrimination, provided that the inclusion criteria relied upon are based on objective and technical factors. The Court held that this requirement was

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met in the present case. Finally, as regards proportionality, the Court noted that the law in question pursues the objective of guaranteeing access to healthcare whilst protecting insured persons against the financial risk associated with illness, by means of a modest contribution deducted from their earnings. It therefore considered that the automatic application of this scheme to the category in question was not disproportionate in relation to the aim pursued.

The Court therefore held that the AMO law was not discriminatory in nature and did not violate the right to equality before the law. Consequently, it concluded that the Respondent State did not violate Articles 2 and 3 of the Charter.

On reparations, the Applicant prayed the Court to order the cessation of the unjustified and unlawful deduction from his salary, subject to a penalty payment of One Hundred Thousand (100,000) CFA francs per month of delay from the date of the judgment, full refund of the said deductions plus statutory interest, his unequivocal withdrawal from the mandatory AMO scheme, and compensation amounting to Two Million (2,000,000) CFA francs for all harm combined. The Respondent State prayed the Court to dismiss the Applicant's request.

The Court recalled that Article 27(1) of the Protocol empowers it to order any appropriate measures, including compensation or reparation, where it finds a human right or peoples' rights violation. Having found that the Respondent State did not violate any of the Applicant's rights, so that there is no basis to award reparations, the Court therefore dismissed all of Applicant's request for reparations.

The Court ordered each Party should bear its own costs.

Further information on this case, including the full text of the African Court's judgment, is available on the website <https://ajudata.african-court.org/details-case/0312020>

If you have any further questions, please contact the Registry by email at registrar@african-court.org

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