

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

IN THE MATTER OF

MOHAMED AL BOUSIFI

V.

REPUBLIC OF NIGER

APPLICATION NO. 003/2022

RULING

24 SEPTEMBER 2026



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The Court composed of: Blaise TCHIKAYA, President; Chafika BENSAOULA, Vice-President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Stella I. ANUKAM, Imani D. ABOUD, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI, Duncan GASWAGA – Judges; and Robert Eno, Registrar.

In the matter of:

Mohamed Al BOUSIFI

Represented by:

Advocate Jalel AKRAM, Advocate of the Tunis Bar Association.

Versus

REPUBLIC OF NIGER

Represented by:

- i. Mr Oumarou IBRAHIM, Director-General of the State Judicial Agency, and
- ii. BAMA Professional Chambers, Advocates of the Niger Bar Association

After deliberation

Issues the present Ruling:

I. THE PARTIES

1. Mr Mohamed AL BOUSIFI (hereinafter referred to as “the Applicant”) is a Libyan national who used to live in Niger. He alleges violation of his right to property as a result of Judgement N°009/2023 of 23 February 2013 issued by the Niamey Special High Court Court (TGI) relating to a registered undeveloped property located in Niamey, Niger.

2. The Application is filed against the Republic of Niger (hereinafter referred to as “the Respondent State”), which became a Party to the African Charter on Human and Peoples Rights (hereinafter referred to as “the Charter”) on 21 July 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 26 June 2004. On 7 April 2022, the Respondent State 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 jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations having observer status before the African Commission on Human and Peoples Rights.

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application that, pursuant to a notarial deed dated 15 February 2010, the Applicant acquired from EAPAD Sarl an undeveloped plot of land measuring 55 hectares located in Niamey, Niger, covered by land title (LT) No. 17625 RN. After the LT had been transferred to his name, he deposited it as collateral with the Libyan Peoples Investment Office in Niger (BIPLN) for the purpose of obtaining a loan, after which he travelled to Libya.
4. The Applicant avers that, in February 2015, while passing through Niamey, he discovered that, at the request of the Public Prosecutor of the Niamey Special High Court Court (TGI), the Land Registry Office had parcelled out and transferred his property to third parties, including Mr Jalaoui ALKABOUSS. According to him, the property was parcelled out and transferred pursuant to confirmation Judgment No. 009/2023 of 27 February 2013 delivered by the Niamey Special High Court Court, approving a judicial

settlement reached between Mr ALKABOUSS and BIPLN (Confirmation Judgment No. 009/2023 of 27 February 2013 by the Niamey Special High Court Court). He contends that he was never informed of those proceedings.

5. The Applicant further avers that in an effort to have the dispossession set aside, he instituted proceedings before the Niamey Special High Court against Mr ALKABOUSS, BIPLN, and EAPAD, while the Respondent State was joined to the proceedings before that court by a writ dated 17 February 2016.

B. Alleged violation

6. The Applicant alleges violation of his right to property protected by Article 14 of the Charter.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

7. The Application was filed with the Registry on 15 June 2022. It was served on the Respondent State with a request to submit the names of its representatives and to file its Response within thirty (30) and ninety (90) days, respectively.
8. In a request dated 3 January 2023, the Applicant sought legal aid. On 9 March 2023, the Registry informed him that his request had been rejected.
9. The Parties filed all pleadings and procedural documents within the prescribed time limits.
10. On 29 April 2026, the Registry notified the Application to State of Libya for its intervention if it so wished, in accordance with Rule 42(5)(b) of the Rules (hereinafter referred to as “the Rules), and granted it thirty (30) days to

respond. Upon expiry of that period, the State of Libya did not file a Response.

11. Pleadings were closed on 22 June 2026, and the Parties were duly informed.
12. On 16 September 2026, the Applicant requested the reopening of pleadings in order to make oral observations online, or at the very least, to submit additional written pleadings. On 23 September 2026, the Court rejected this request. The Registry informed the Applicant on the same day.

IV. PRAYERS OF THE PARTIES

13. The Applicant prays the Court to:
 - i. Hold that he was not a Party to the conciliation report of 27 February 2013;
 - ii. Declare that Judicial Settlement Approval Judgment No. 009/2013 of 27 February 2013 is unenforceable against him;
 - iii. Hold and declare that the said report does not constitute a valid ownership rights transfer instrument attached to Land Title No. 17625, in accordance with the law;
 - iv. Annul the parcelling out of 35 hectares carried out pursuant to the report of 1 March 2013 concerning Land Title No. 17625, together with all subsequent acts, for violation of the law;
 - v. Hold and declare that the 55-hectare plot of land situated in Niamey, Route Dosso, covered by Land Title No. 17625, remains the property of the Applicant;
 - vi. Order the Land Registry to proceed with the full and immediate restitution of Land Title No. 17625 to the Applicant;
 - vii. Order the Respondent State to pay the Applicant the sum of Two Hundred Million (200,000,000) CFA francs in damages for all the prejudice suffered;
 - viii. Order the Respondent State to pay costs.

14. For its part, the Respondent State prays the Court to:

Primarily

- i. Note that the Republic of Libya makes no admission in the present case;
- ii. Declare Mr Mohamed Al BOUSIFI's Application inadmissible;

In the alternative,

- iii. Dismiss in their entirety all the requests, prayers and submissions of Mr Mohamed Al BOUSIFI;
- iv. Order Mr Mohamed Al BOUSIFI to pay costs.

V. JURISDICTION

15. Article 3 of the Protocol provides that:

1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this 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 shall decide.

16. Furthermore, under Rule 49(1) of the Rules of Procedure:

The Court shall conduct a preliminary examination of its jurisdiction and the admissibility of an Application in accordance with the Charter, the Protocol and these Rules.

17. In light of the aforementioned provisions, the Court, in every application, must conduct a preliminary examination of its jurisdiction and rule on objections thereto, if any.
18. The Court notes that the Respondent State does not raise any objection to its jurisdiction. Nonetheless, in accordance with Rule 49(1) of the Rules, it must ensure that all requirements relating to all aspects of its jurisdiction are met before proceeding to hear the Application.
19. The Court observes that there is nothing in the record to indicate that it lacks jurisdiction in the present matter. Consequently, it considers that it has:
 - i. Material jurisdiction, insofar as the Applicant alleges the violation of a right protected under the Charter an instrument ratified by the Respondent State;
 - ii. Personal jurisdiction, insofar as the Respondent State deposited the Declaration on 7 April 2022;
 - iii. Temporal jurisdiction, insofar as the alleged facts occurred after 25 June 2004, the date on which the Respondent State became a Party to the Protocol; and
 - iv. Territorial jurisdiction, insofar as the alleged facts took place on the Respondent State's territory.
20. In the light of the foregoing, the Court finds that it has jurisdiction to hear the present Application.

VI. ADMISSIBILITY

21. Article 6(2) of the Protocol provides:

The Court shall rule on the admissibility of cases, taking into account the provisions of Article 56 of the Charter.

22. Under Rule 50(1) of the Rules:

The Court shall ascertain the admissibility of an Application [...] in accordance with Article 56 of the Charter, Article 6(2) of the Protocol and these Rules.

23. Furthermore, under Rule 50(2) of the Rules, which essentially restates Article 56 of the Charter:

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 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 seized 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.

24. The Court notes that the Respondent State raises an objection to admissibility based on non-exhaustion of local remedies. The Court will rule on this objection before examining the other admissibility requirements, if necessary.

A. Objection based on non-exhaustion of local remedies

25. The Respondent State submits that the Applicant did not exhaust local remedies insofar as he did not bring before domestic courts any claim relating to recovery of the property covered by Land Title No. 17625, of which he claims he was unlawfully dispossessed.
26. According to the Respondent State, the only proceedings initiated by the Applicant consisted of a liability action arising from the *“freezing of funds allocated to Aigle de l’Afrique SARL by the Libyan Arab Bank from abroad under the credit agreement of 27 January 2003”*, and sought the *“release of those funds” for the continuation of the Aigle de l’Afrique SARL investment project, which had been halted as a result thereof, the total amount involved being CFAF 1,749,667,500”*.
27. The Respondent State contends that the Applicant, therefore, fails to provide evidence that he exhausted local remedies. It thus prays that the Application be declared inadmissible.

28. The Applicant prays the Court to dismiss the Respondent State’s objection. In this regard, he argues that a remedy can only be exhausted to the extent that it is available and effective. He contends that it was virtually impossible to exhaust local remedies during the Libyan revolution and the massive, arbitrary and unjustified expulsion of investors.
29. The Applicant further submits that, by writ dated 17 February 2016, he instituted proceedings against the BIPLN, Mr ALKABOUSS, and EAPAD Sarl and joined the Respondent State thereto.
30. In addition, the Applicant produced Judgment No. 320 of 13 June 2012 delivered in the case between Aigle de l’Afrique Sarl, of which he was the Managing Director, and representative of the BIPLN. In the said Judgment,

the Niamey Special High Court dismissed his liability action arising from the freezing of funds allocated to Aigle de l'Afrique SARL by the Libyan Arab Foreign Bank under the 27 January 2003 credit agreement, and his request for the release of the sum of CFAF 1,749,667,500. The Applicant also submitted confirmation Judgment No. 009/2023 of 27 February 2013, delivered by the Niamey Special High Court, recording the judicial settlement reached between the BIPLN and Mr ALKABOUSS, pursuant to which the latter was allocated a 35-hectare plot carved out from his 55-hectare property. He maintains that he was never informed of those proceedings.

31. The Court recalls that, in accordance with Article 56(5) of the Charter and Rule 50(2)(e) of the Rules, applications must be filed after exhaustion of local remedies, where such remedies exist, unless it is obvious that the procedure thereof has been unduly prolonged.¹
32. The Court emphasises that the remedies to be exhausted are judicial remedies. Such remedies must be available, in the sense that they can be exercised by the Applicant without impediment, and effective, in that they are “capable of redressing the complaint or of remedying the situation in dispute”.²
33. The Court recalls its established jurisprudence that it is not sufficient for the Applicant merely to cast doubt on the effectiveness of local remedies. It is incumbent upon the Applicant to take all necessary steps to exhaust, or at least attempt to exhaust, local remedies.³

¹ *Ghaby Kodeih and Nabih Kodeih v. the Republic of Benin*, AfCHPR, Application No. 008/2020, Judgment of 23 June 2022 (jurisdiction and admissibility), § 49; *Houngue Éric Noudehouenou v. Republic of Benin*, AfCHPR, Application No. 032/2020, Judgment of 22 September 2022 (jurisdiction and admissibility), § 38.

² Beneficiaries of the late Norbert Zongo, *Aboulaye Nikiema (known as Ablassé), Ernest Zongo and Blaise Ilboudo, and the Burkinabe Movement for Human and Peoples' Rights v. Burkina Faso* (merits) (5 December 2014) 1 AfCLR 219, § 68.

³ *Peter Joseph Chacha v. United Republic of Tanzania* (admissibility) (28 March 2014) 1 AfCLR 398, § 143; *The Diakité Spouses v. Republic of Mali* (jurisdiction and admissibility) (28 September 2017) 2

34. The Court further notes that the exhaustion of local remedies presupposes that the matter brought before it is, at least in substance, identical to the matter previously submitted to domestic courts.⁴

35. In the present case, the Court will assess the exhaustion of local remedies in light of the Parties' submissions and the documents in the record, namely: (i) the difficulties allegedly encountered in exhausting local remedies during the Libyan revolution; (ii) Judgment No. 320 of 13 June 2012 delivered by the Niamey Special High Court; (iii) the Judicial Settlement Approval Judgment No. 009/2013 of 27 February 2013 delivered by the Niamey Special High Court; and (iv) the writ of summons dated 17 February 2016 before the Niamey Special High Court.

i. Alleged difficulties in pursuing local remedies due to the Libyan revolution

36. The Court emphasises that the Applicant is not required to seize Libyan courts since Libya is not a party to these proceedings.

37. Consequently, the Court dismisses the argument relating to the difficulty in exhausting local remedies due to the Libyan revolution.

ii. Judgment No. 320 delivered on 13 June 2012 by the Niamey Special High Court

38. The Court recalls, as stated above, that the exhaustion of local remedies requires that the matter before it be, at least in substance, the same as that which was previously brought before domestic courts.

AfCLR 118; *Komi Koutché v. Republic of Benin* (jurisdiction and admissibility) (25 June 2021) 5 AfCLR 231, § 92.

⁴ *Koutché v. Benin*, *ibid*, § 49.

39. The Court notes that Judgment No. 320 of 13 June 2012 was delivered by the Niamey Special High Court in proceedings between the Applicant, acting in his capacity as Managing Director of l'Aigle de l'Afrique SARL, and BIPLN. The court that delivered the said judgment was seised of a liability action arising from "*the freezing of funds allocated to Aigle de l'Afrique SARL by the Libyan Arab Bank from abroad under the credit agreement of 27 January 2003*", by which the Applicant sought "*the release of the said funds*" and the payment of various sums of money as compensation for the damage allegedly suffered.
40. The Court notes that this action differs fundamentally from the one brought before it. The Applicant cannot, therefore, rely on same to justify the non-exhaustion of local remedies.
41. Consequently, the Court dismisses the Applicant's argument on this point.

iii. Judicial Settlement Approval Judgment No. 009/2013 delivered on 27 February 2013 by the Niamey Special High Court Court

42. The Court recalls that the Applicant asserts that he was dispossessed of his property was based on Judicial Settlement Approval Judgment No. 009/2013 delivered on 27 February 2013 by the President of the Niamey Special High Court Court.⁵ He explains that he was never informed of those proceedings.
43. The Court notes that under Article 550 of the Civil Procedure Code (CCP)⁶ of the Respondent State: "a third-party appeal seeks to have a judgment set aside where it adversely affects the rights of a person who was not a party thereto. It is available to all third parties where neither they, nor their principals, nor those they represent were, summoned to the proceedings".

⁵ The parties to these proceedings were Mr Jalaoui ALKABOUSS and the Libyan Investment Office.

⁶ Law No. 2015-23 of 23 April 2015 on the Code of Civil Procedure of the Republic of Niger.

44. Having never been informed of these proceedings, as he himself claims, the Applicant had the avenue of filing a third-party appeal to have that judgment set aside. However, he did not avail himself of that remedy provided for under Article 550 of the Respondent State's Civil Procedure Code.
45. Consequently, the Court considers that the Applicant failed to exhaust that remedy.

iv. The writ of 17 February 2016 before the Niamey Special High Court Court

46. The Court recalls that the Applicant claims that by writ dated 17 February 2016, he instituted proceedings before the Niamey Special High Court Court against the BILPN, Mr ALKABOUSS and EAPAD, with the Respondent State joined thereto.
47. The Court notes, however, that the Applicant does not produce the said writ, and neither does he indicate its subject matter. In the circumstances, the Court is unable to assess , whether the subject matter of those proceeding was, in substance, the same as that of the present Application. Furthermore, the Applicant does not demonstrate that those proceedings resulted in a judgment or, in the absence of a judgment, that the proceedings were unduly prolonged.
48. It follows that the Court cannot conclude, solely on the strength of the allegation regarding the writ of 17 February 2016 before the Niamey Special High Court, that local remedies were exhausted.
49. In conclusion, the Court finds that the Applicant fails to establish that he brought an action before domestic courts in respect of his landed property rights, namely, a civil action falling within the jurisdiction of the High Court,

pursuant to Articles 64⁷ and 73⁸ of Organic Law 2004-50 of 22 July 2004 on the organisation and jurisdiction of courts in the Republic of Niger, and Article 43⁹ of the Respondent State's Civil Procedure Code.

50. Consequently, the Court upholds the Respondent State's objection based on non-exhaustion of local remedies and finds that the Application does not meet the requirement under Rule 50(2)(e) of the Rules.

B. Other admissibility requirements

51. Having found that the Application does not meet the requirement under Rule 50(2)(e) of the Rules, and in view of the cumulative nature of the admissibility requirements,¹⁰ the Court need not rule on the other admissibility requirements under Article 56 (1), (2), (3), (4), (6) and (7) of the Charter, restated in Rule 50(2)(a)(b)(c)(d)(f) and (g) of the Rules.¹¹

52. Accordingly, the Court declares the Application inadmissible.

VII. COSTS

53. Each Party prays the Court to order the other to pay the costs.

⁷ Article 64 of Organic Law 2004-50 of 22 July 2004 establishing the organisation and jurisdiction of the courts in the Republic of Niger, under Title III: The jurisdiction of civil courts and Chapter I: General rules applicable to civil law disputes, provides: '*The courts shall apply the law in cases concerning property or possession of immovable property and the rights arising therefrom, where the dispute relates to a property registered in the land register or recorded in the rural register, or where the acquisition and transfer have been established by any other means of proof provided for by law.*'

⁸ Article 73 of Organic Law 2004-50 of 22 July 2004 establishing the organisation and jurisdiction of the courts in the Republic of Niger provides: '*The High Courts are courts of general jurisdiction in all matters except those for which jurisdiction is vested in other courts.*'

⁹ Article 42 of the Act provides: '*In matters relating to immovable property, the court of the place where the property is situated shall have exclusive jurisdiction.*'

¹⁰ *Mariam Kouma and Ousmane Diabaté v. Republic of Mali* (jurisdiction and admissibility) (21 March 2018), 2 AfCLR 237, § 63; *Rutabingwa Chrysanthé v. Republic of Rwanda* (jurisdiction and admissibility) (11 May 2018), 2 AfCLR 361, § 48; *Collective of former ALS workers v. Republic of Mali*, AfCHPR, Application No. 042/2015, Judgment of 28 March 2019 (jurisdiction and admissibility), § 39.

¹¹ *Kouma and Diabaté v. Mali*, *ibid.*

54. Article 32(2) of the Rules provides that “[u]nless otherwise decided by the Court, each party shall bear its own costs, if any”.
55. The Court notes that proceedings before it are free of charge and that, as a general rule, each party bears its own costs. In the present case, none of Parties demonstrates the existence of circumstances warranting a departure from the provisions of Rule 32(2) of the Rules.
56. Accordingly, the Court orders that each Party shall bear its own costs.

VIII. OPERATIVE PART

57. For these reasons:

THE COURT,

Unanimously,

On jurisdiction

- i. *Declares* that it has jurisdiction.

On admissibility

- ii. *Upholds the* Respondent State’s objection based on non-exhaustion of domestic remedies;
- iii. *Declares* the Application inadmissible.

On costs

- iv. *Orders* that each Party shall bear its own costs.

Signed:

Blaise TCHIKAYA, President; 

Chafika BENSOUULA, Vice-President; 

Rafaâ BEN ACHOUR, Judge; 

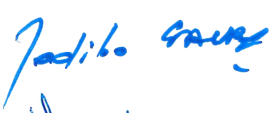
Suzanne MENGUE, Judge; 

Tujilane R. CHIZUMILA, Judge; 

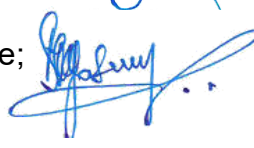
Stella L. ANUKAM, Judge; 

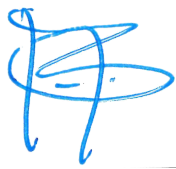
Imani D. ABOUD, Judge; 

Dumisa B. NTSEBEZA, Judge; 

Modibo SACKO, Judge; 

Dennis D. ADJEI, Judge; 

Duncan GASWAGA, Judge; 

and Robert ENO, Registrar. 

Done at Arusha, on the Twenty-Fourth Day of September in the year Two Thousand and Twenty-Six, in French and English, the French being authoritative.

