

SUMMARY OF APPLICATION No. 021/2015 IN THE MATTER OF KAMDEM ROGER VERSUS MEMBER STATES OF THE INTER-AFRICAN CONFERENCE ON INSURANCE MARKETS (CIMA)

A. THE PARTIES

Mr. Roger Kamdem is a citizen of Cameroon, former Director of Insurance Company SAMRIS SA (Automobile, Sickness, Fire and various Social Risks Insurance), a Limited Liability Company in the Douala Commerce and Companies Register in Cameroon. It is acting in its capacity as former Director and shareholder representing the majority of shareholders.

He has filed the Application against Member States of the Inter-African Conference on Insurance Markets (CIMA), namely:

- REPUBLIC OF BENIN,
- BURKINA FASO,
- REPUBLIC OF CAMEROON,
- CENTRAL AFRICAN REPUBLIC,
- REPUBLIC OF CONGO,
- REPUBLIC OF CÔTE D'IVOIRE,
- REPUBLIC OF GABON,
- REPUBLIC OF EQUATORIAL GUINEA,
- REPUBLIC OF MALI,
- REPUBLIC OF NIGER,
- REPUBLIC OF SENEGAL,
- REPUBLIC OF CHAD,
- REPUBLIC OF TOGO,
- FEDERAL ISLAMIC REPUBLIC OF THE COMOROS

B. SUMMARY OF THE FACTS

1. The Inter-African Conference on Insurance Markets (CIMA) is an integrated organization of the insurance industry created on 10 July 1992, composed of the Republic of Benin, Burkina Faso, Republic of Cameroon, Central African Republic, Republic of Congo, Republic of Côte d'Ivoire, Republic of Gabon, Republic of Equatorial Guinea, Republic of Mali, Republic of

Niger, Republic of Senegal, Republic of Chad, Republic of Togo and the Federal Islamic Republic of The Comoros.

2. The Company SAMIRIS INSURANCE SA underwent prudential supervisory review by the Control Brigade of CIMA General Secretariat, from 11 to 15 May 2009.

3. The Report of this Brigade was submitted to the Regional Insurance Control Commission (CRCA) meeting in its 58th session in February 2010 in Cotonou, Benin Republic of Benin.

4. The said report maintained that the funding needs of SAMIRIS SA amounted to the sum of 1,770,000,000 (one billion seven hundred and seventy million) CFA Francs.

5. On the basis of this report of the Control Brigade, which was contested by SAMIRIS SA, the Regional Insurance Control Commission ordered the company to produce a financing plan for the above amount.

6. The Regional Insurance Control Commission (CRCA) meeting in its 60th Ordinary Session in Bamako from 26 to 30 June 2010, reviewed the share capital of SAMIRIS SA in the amount of 1,000,000,000 (one billion) CFA F as of 30 July 2010.

7. At the meeting held in Dakar in July 2011, the financing plan was finalized by the Commission in the sum of 815,000,000 (eight hundred and fifteen million) CFA Francs.

8. At the 65th session, CIMA decided to sanction SAMIRIS by placing it under constant surveillance (a sanction considered severe on the scale of CIMA).

9. At its 67th session held in Lomé on 24 April 2012, SAMIRIS SA was invited to justify its financing plan unilaterally set 815,000,000 (eight hundred and fifteen million) CFA Francs, by CRCA.

10. Not satisfied with the explanations furnished by SAMIRIS SA, the Regional Insurance Control Commission rejected the plan and decided to suspend the leaders of the Company and to appoint a Provisional Administrator.

11. The CEO Mr. Roger Kamdem was suspended from duty and a legal liquidator appointed by CIMA.

C. COMPLAINTS

The Applicant prays the Court to:

- DECLARE illegal Articles 6, 22, 48 et seq. of the Treaty of 10 July 1992 establishing CIMA.
- DECLARE illegal Articles 316, 317, 325-1 et seq. of the Insurance Code of CIMA member countries.
- RULE that the member states of the Inter-African Conference on Insurance Markets deliberately violated international human rights protection conventions of which they are signatories;

- ORDER the said member states to review both the Treaty and CIMA Insurance Code to ensure protection of human rights.

- ORDER also the annulment of 26 October 2012 Decision No. 00020/D/CIMA/CRCA/PDT/2012 OF THE REGIONAL INSURANCE CONTROL COMMISSION (CRCA) taken against the Company based on the unlawful provisions cited above, and by which the withdrawal of its licence was pronounced (**Exhibit # 1**) and consequently, ORDER Member States of CIMA to repair the damage suffered, particularly by the partners and the Company itself.

This prayer for annulment is made on the following grounds:

- Violation of Articles 8 and 10 of the Universal Declaration of Human Rights;
- Violation of the Preamble and Article 4 of the International Covenant on Economic, Social and Cultural Rights;
- Violation of the Preamble and Articles 2 (3) and 14 of the International Covenant on Civil and Political Rights;
- Violation of Articles 1, 3 and 7 of the African Charter on Human and Peoples' Rights;
- Abuse of power by CIMA organs;
- Abuse of authority by CIMA organs;
- Erroneous assessment of the personal status of the Company and its representatives.

D. MEASURES REQUESTED

The Applicant requests as follows:

1. On the material damage, order the Commission to pay reparation in the sum of 1,300 000,000 CFA F at the least.

2. On the professional damage, reparation for "all of its losses which cannot be less than 3 billion CFA Francs."

3. The damage to the image of the company, order the Commission to pay reparation in the amount of 3 billion CFA F.

4. On the professional prejudice, order the CIMA to pay reparation in the amount of 6 billion CFA F

5. On the financial damage of SANTEPHONE project, order the CIMA to pay reparation in the amount estimated at 87,898,125,000 CFA F.

6. On the financial prejudice resulting from other projects, order CIMA to pay the sum of six billion CFA F and order CIMA to serve the Company with that sum.

7. On the procedural costs, order CIMA to pay the sum of 700 million CFA F.

E. PROCEDURE

On 10 June 2015, Counsel for Mr Roger Kamdem filed before the Registry of the Court a first Application against the Inter-African Conference on Insurance Markets (CIMA).

On 26 June 2015, the Registry wrote to inform the Applicant that the African Court has no jurisdiction to entertain his Application because CIMA is not a State; that the Court can hear only Applications filed against member states of the Ouagadougou Protocol.

On 22 September 2015, the Applicant submitted a second Application which, this time around, was filed against CIMA member states, individually and collectively.

F. DECISION

During its 39th Ordinary session held in Arusha from 09 to 20 November 2015, **the Court decided that it is not competent and instructed the Registry to write an administrative letter to inform the Applicant accordingly.**