



Arusha, Tanzania

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## JUDGMENT SUMMARY

### AMINATA SOUMARE V. REPUBLIC OF MALI

APPLICATION No. 038/2019

### RULING ON JURISDICTION AND ADMISSIBILITY

5 SEPTEMBER 2023

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

**Arusha, 5 September 2023:** The African Court on Human and Peoples' Rights (hereinafter referred to as "the Court") has, today, rendered a Ruling in the case of *Aminata Soumaré v. Republic of Mali*.

Dame Aminata Soumaré (hereinafter referred to as "the Applicant") is a national of Mali and previously Director of a multi-service communication agency responsible for managing the image of the President of the National Transitional Council in Mali. The Applicant alleges violation of her right to a fair trial and her right to dignity in the proceedings before the national courts.

It emerges from the file that the Applicant alleges that, on 19 April 2012, she was abducted and then held captive for three (3) weeks by three agents of the security services of the Respondent State, pointing out that during this period she was raped and tortured.

She further claims that, on the night of her abduction, she was questioned by police officers at the "National Police Post " in connection with certain militants and other individuals who were planning a coup d'état.

In her Application, the Applicant alleges that the Respondent State violated her rights guaranteed by Articles 4, 5, 7(1)(c) of the Charter; Articles 8 and 10 of the Universal Declaration of Human Rights (UDHR); and Articles 6 and 10(1) of the International Covenant on Civil and Political Rights (ICCPR).

The Respondent State did not raise objection regarding material jurisdiction.

Having noted that nothing on file indicates that it lacks jurisdiction, the Court concludes that it has: material jurisdiction, insofar as the Applicant alleges the violation of the human rights protected by Article 7 of the Charter, Articles 8 and 10 of the UDHR and Article 6 of the ICCPR, instruments to which the Respondent State is a party; personal jurisdiction, insofar as the Respondent State is a party to the Protocol and has deposited the requisite Declaration; temporal jurisdiction, insofar as the alleged violations were committed after the Respondent State became a party to the Protocol; and territorial jurisdiction to the extent that the alleged violations occurred within the territory of the Respondent State. In view of the foregoing, the Court concludes that it has jurisdiction to hear this Application.

Regarding admissibility of the Application, the Respondent State raised an objection of inadmissibility of the Application based on its failure to exhaust the local remedies.

The Respondent State submits that the Applicant failed to exhaust the local remedies that were available. It claims that she was supposed to lodge her complaint with the national judicial authorities and that if the said complaint was dismissed, she could lodge an appeal. According to the Respondent State, had the Applicant seized the judicial authorities, local remedies could have been deemed to have been exhausted.

The Respondent State further submits that the Applicant merely alleges that she filed several complaints which were rejected, without providing any evidence to support her allegations or indicate the authority she seized and the decision rendered. It also argues that evidence is essential to determine whether local remedies have been exhausted. According to the Respondent State, no evidence has been filed to indicate whatever action was taken by the Applicant at the national level, be it at the trial court or before the appellate courts, whereas she had the possibility of doing so since she was assisted by counsel.

The Respondent State asserts that a law on civil, commercial, social and criminal procedures has been in force since 2001. The provisions set out therein, according to the Respondent State, allow the exercise of local remedies, with guarantees of availability, satisfaction and efficiency.

The Court noted that the Applicant did not make submission on this point.

On the issue of the existence of remedies, the Court noted that under Article 62 of the Code of Criminal Procedure (hereinafter referred to as "CPP") of the Respondent State: "[a]ny person who claims to have been wronged by a crime or misdemeanor, may file a complaint as a civil party before the competent investigating judge".

The Court noted that, in the instant case, there is no legal or factual obstacle to the exercise of this remedy by the Applicant. The Court therefore considers that this remedy is available.

Furthermore, the Court noted that the complaint lodged by the Applicant with the President of the Malian Section of the International Federation for Human Rights on 10 November 2014, does not constitute a remedy within the meaning of Article 56(5) of the Charter since the Federation is not a jurisdiction.

Consequently, the Court found in conclusion that the Application does not meet the conditions of admissibility set out in Article 56(5) of the Charter, and accordingly declared the same inadmissible.

In the present case, as the Application has not satisfied the condition of exhaustion of local remedies prescribed in Article 56(5) of the Charter, and as the conditions are cumulative such that when any one of them has not been met, it is the entire Application that becomes inadmissible, there is no need to examine the other conditions of admissibility.

Accordingly, the Court declared the Application inadmissible.

The Court decided that each Party should bear its own costs.

This decision was adopted by a majority of nine (9) votes for and one (1) vote against, Judge Chafika Bensaoula having issued a dissenting declaration.

**Further information:**

Further information on this case, including the full text of the judgment of the African Court, is available on the website: <https://www.african-court.org/cpmt/details-case/0382019>

For all other enquiries, please contact the Registry by email at [registrar@african-court.org](mailto:registrar@african-court.org).

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