


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

**APPLICATION NO. 005/2024**

**CHIEF FESTUS A. OGWUCHE AND 24 OTHERS.....APPLICANTS**

**V.**

**BURKINA FASO AND 5 OTHERS.....RESPONDENT STATES**

## **CASE SUMMARY**

## **I. THE PARTIES**

1. Chief Festus A. Ogwuche and 24 others (“the Applicants”) are nationals of various member States of the Economic Community of West African States (ECOWAS).
2. On 23 May 2024, Chief Festus A. Ogwuche and 25 Others filed an Application against the Republic of Côte d'Ivoire and 14 other Respondent States. By a Ruling<sup>1</sup> of the Court dated 17 June 2025, the Court found that one of the Applicants, being a Non-Government Organisation, did not have the required observer status before the African Commission on Human and Peoples’ Rights (the Commission). In addition, the Court found that some of the Respondent States were not Parties to the Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples’ Rights (the Protocol), while others had withdrawn their Declarations by the time the Application was filed. Accordingly, the Court struck them out from being parties to the Application and ordered that the action proceed only as regards States that were parties to the Protocol and also those with valid Declarations.
3. As a result of the Court’s Ruling, the Application is filed against Burkina Faso, Republic of The Gambia, Republic of Ghana, Republic of Guinea Bissau, Republic of Mali and Republic of Niger (the Respondent States). The Respondent States were, at all material times, member States of the ECOWAS.

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

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<sup>1</sup> Application No. 005/2024 *Chief Festus A. Ogwuche & 25 Others v. Republic of Côte d'Ivoire & 14 Others* Order (Striking Out) 17 June 2025.

## **A. Facts of the matter**

4. The Applicants filed this Application following an alleged proposal by the Chief Justices of ECOWAS Member States, acting in their capacity as the “Judicial Service Commission” of the Community Court of Justice of ECOWAS (the ECOWAS Court) to amend Protocol A/P.1/7/79 on the ECOWAS Court to incorporate the requirement for the exhaustion of domestic remedies as a prerequisite for the admissibility of cases.
5. The Applicants contend that the proposed incorporation of the requirement for the exhaustion of domestic remedies would both procedurally and substantively deprive them of their fundamental rights as enshrined in the Charter and other international human rights instruments.
6. In support of their claim, the Applicants highlight the general weakness of domestic judicial systems within the region, which they argue are often under-resourced, lack adequate infrastructure, and are vulnerable to political interference and manipulation. They contend that this compromises the independence and autonomy of national judiciaries, rendering the proposed requirement inappropriate and unfeasible in practice.
7. The Applicants, additionally, contend that the establishment and expanded jurisdiction of the ECOWAS Court was driven by the recognition that domestic courts had largely failed to guarantee the protection and enforcement of individuals' rights. They assert that the ECOWA Court was created to serve the people of the region, not the interests of Member States against whom those people frequently bring claims of rights violations. Consequently, the Applicants maintain that any decision affecting the functioning and accessibility of the ECOWAS Court cannot be legitimately made without consulting the very individuals for whose benefit it was established.

8. The Applicants allege that the jurisprudence of the ECOWAS Court has progressively shaped the legal landscape of the region, fostering a body of law with which lawyers and litigants have become increasingly familiar. The Applicants further assert that the introduction of a new admissibility requirement would disrupt this legal evolution and undermine the significant advancements made, particularly in the field of human rights.

## **B. Alleged Violations**

9. The Applicants allege violation of the following:
  - i. The obligation of States to recognize and implement the rights, duties, and freedoms enshrined in the Charter, as provided under Article 1 of the Charter;
  - ii. The right to have one's cause heard, including the right to appeal, presumption of innocence, legal defense, and trial within a reasonable time, as provided under Article 7 of the Charter;
  - iii. The right to self-determination and to freely determine political status and economic, social, and cultural development, as protected under Article 20(1) of the Charter;
  - iv. The right of colonized or oppressed peoples to free themselves from domination, as provided under Article 20(2) of the Charter;
  - v. The right of oppressed peoples to receive assistance in their liberation struggle against foreign domination, as protected under Article 20(3);
  - vi. The right to self-determination, as protected under common Article 1 of the ICCPR and the ICESCR;
  - vii. The obligation of States to adopt necessary legislative or other measures to give effect to recognized rights, as provided under Article 2(2) of the ICCPR;

- viii. The right to an effective remedy for violations of fundamental rights, as provided under Article 3 of the ICCPR;
- ix. The right to an effective remedy for acts violating fundamental rights, as protected under Article 8 of the UDHR;
- x. The right to a fair and public hearing by an independent and impartial tribunal guaranteed under Article 10 of the UDHR;
- xi. The right to a social and international order in which rights and freedoms can be fully realized enshrined under Article 28 of the UDHR and;
- xii. The prohibition against engaging in activities that undermine the rights and freedoms in the Declaration, as enshrined under Article 30 of the UDHR.

### **C. APPLICANTS' PRAYERS**

10. The Applicants pray the Court to grant the following provisional measures:

- i. An order restraining the Respondents, either by themselves, servants, agents, and privies, from deliberating on and adopting the proposal to vary the jurisdiction of the ECCJ, and to hold the matters in status quo pending the determination of the substantive aspects of the Application that is before the Court.
- ii. An interim order restraining the Respondents, either by themselves or through servants, agents and privies, from acting or attempting to act to utter, amend or vary the provisions of the ECOWAS Revised Treaty, the protocols establishing the ECCJ, or the rules of practice of the ECCJ, pending the determination of the substantive aspects of the Application that is before the Court.

11. On the merits, the Applicants pray the Court for the following:

- i. A declaration that the Applicants, together with the citizens of the respective Member States of the ECOWAS, are entitled to the benefit and enjoyment of human rights and fundamental freedoms, guaranteed and protected in the Charter.
- ii. A declaration that the Respondents are bound by the Charter and the Declaration contained in the Preamble to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.
- iii. A declaration that the Applicants, together with the citizens of the respective member States of the ECOWAS, are entitled to the privileges and opportunities created through the establishment of the ECCJ for the enforcement and entrenchment of fundamental rights and freedoms, and for the entrenchment of human rights norms within the sub-region.
- iv. A declaration that the ECCJ is entitled to remain a court of first instance, and a mechanism for the enforcement of fundamental rights.
- v. A declaration that the ECCJ is an independent, autonomous and distinct judicial body mandated by the ECOWAS Revised Treaty and the protocols that established the ECCJ to hold the Respondent States accountable to their international human rights obligations. Further, it is mandated to ensure the enforcement of the fundamental rights of the citizens of the member States of the ECOWAS.
- vi. A declaration that the ECCJ is a creation of international law, for the protection, preservation and enforcement of fundamental rights of citizens of the member States of the ECOWAS, and for the latter's interests and welfare; and that the ECCJ's composition, jurisdiction, and procedures cannot be the subject of the unilateral decision of the Respondent States.

- vii. An order compelling the Respondent States to abide by the legal instruments of the ECCJ and ensure preservation and retention of the ECCJ's mandate.
- viii. An order compelling the Respondent States not to do anything to alter the existing jurisdiction of the ECCJ, including adjusting its criteria for competence and the determination of admissibility in ways that could affect the ECCJ's status as a court of first instance.
- ix. An order compelling the Respondent States to pay the costs of this litigation.
- x. Any such orders as the Court may deem fit to make, in the circumstances.
- xi. States to put in adequate measures for the respect, observance, and implementation of the ECCJ's decisions, orders, and judgments within the former's respective jurisdictions, pursuant to the Charter.