



COMMUNITY COURT OF JUSTICE, ECOWAS
COUR DE JUSTICE DE LA COMMUNAUTE, CEDEAO
TRIBUNAL DE JUSTICA DA COMUNIDADE, CEDEAO

**THE COMMUNITY COURT OF JUSTICE OF THE
ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

In the Matter of

**MR. ZADI PHILIPPE V AUTHORITY OF HEADS OF STATE &
GOVERNMENT, ECOWAS & 1 OR.**

Application No: ECW/CCJ/APP/24/22 Judgment NO. ECW/CCJ/JUD/05/25

JUDGMENT

ABUJA

DATE: 14th February, 2025.

JUDGMENT NO. ECW/CCJ/JUD/05/25

MR. ZADI PHILIPPE

- APPLICANT

V.

**1. THE AUTHORITY OF HEADS OF STATE
AND GOVERNMENT OF THE ECONOMIC
COMMUNITY OF WEST AFRICAN STATES**

-RESPONDENT

**2. THE COMMISSION OF THE ECONOMIC
COMMUNITY OF WEST AFRICAN
STATES**

COMPOSITION OF THE COURT:

Hon. Justice Sengu Mohamed KOROMA

-Presiding/ Rapporteur

Hon. Justice Dupe ATOKI

- Member

Hon. Justice Edward A. ASANTE

-Member

ASSISTED BY:

Dr. Athanase ATANNON

- Deputy Chief Registrar



REPRESENTATION OF PARTIES:

Brown OSARENKHOE

- Counsel for the APPLICANT

Unrepresented

- Counsel for the RESPONDENT

I. JUDGMENT

1. This is the judgment of the Community Court of Justice, ECOWAS (hereinafter referred to as 'the Court') delivered virtually in open Court pursuant to Article 8(1) of the Practice Direction on Electronic Case Management and Virtual Court Session, 2020.

II. DESCRIPTION OF THE PARTIES

2. The Applicant is Mr. Zadi Philipe a citizen of the Republic of Ivory Coast.
3. The First Respondent is the Authority of Heads of States of the Economic Community of West African States.
4. The Second Respondent is the Commission of the Economic Community of West African States.

III. INTRODUCTION

5. This application has been submitted pursuant to Article 9 (1) (g), (2), (3) of the Supplementary Protocol A/SP.1/01/05 amending the Protocol A.P1/7/91 and the Applicant is seeking for financial compensation for the damage caused by the decisions taken at the 4th Extra-Ordinary Session of the Authority of Heads of State and Government of ECOWAS, against the Republic of Mali.

IV. PROCEDURE BEFORE THE COURT

6. The Applicant filed his Initiating Application on the 24th May 2022, in the Registry of the Court.
7. On the 24th October 2023, the Applicant filed an application for Judgment by Default at the Registry of the Court as the Respondent had not filed any Statement of Defence.



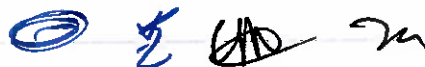
8. The Court held a virtual session on the 30th September 2024, in which the Applicant was represented by Counsel, but the Respondent was absent and unrepresented in Court. The Applicant was allowed to move his application for Judgment by Default after which, the case was adjourned for judgment.

V. APPLICANT'S CASE

a) Summary of facts

9. The Applicant is a community citizen, of Ivorian descent, who has brought a claim for damages before the Court based on certain declarations issued by the Respondents that adversely affected him.
10. He narrates a series of travel itinerary that started on 6th December 2022, on CORSAIR (an airline) which ultimately resulted in the basis for the present action. The Applicant claims that on the 28th December 2021, he took a scheduled flight on Air Cote d'Ivoire (an airline) to Bamako, Mali as part of a work trip with the intention of returning to Abidjan on 10th January 2022. However, he was prevented from returning on the scheduled return flight due to the Respondents' act of imposing certain measures on the 9th January 2022 to wit:

- a. Recall for consultations by ECOWAS Member States of their Ambassadors accredited to Mali;*
- b. Closure of land and air borders between ECOWAS countries and Mali;*
- c. Suspension of all commercial and financial transactions between ECOWAS Member States and Mali, with the exception of food products, pharmaceutical products, medical supplies and*



- equipment, including materials for the control of COVID-19, petroleum products and electricity;*
- d. Freeze of assets of the Republic of Mali in ECOWAS Central Banks;*
- e. Freeze of assets of the Malian State and the State Enterprises and Parastatals in Commercial Banks;*
- f. Suspension of Mali from all financial assistance and transactions with all financial institutions, particularly, EBID and BOAD.*

11. The Applicant claims that following the aforementioned itinerary, he had a subsequent scheduled flight to France on the 15th January 2022, and was to leave Bamako on the 10th January 2022 to Abidjan so that he could make the schedule. Unfortunately, he was unable to do so as the measures taken by the Respondent took effect on the 9th January 2022. The said measures unduly delayed him in Bamako, and he was further prevented to leave by bus at the border of Mali and Cote d'Ivoire. Therefore, he could only return to Abidjan on 5th February 2022, via Nouakchott, Mauritania. Due to the disruption in his schedule, the Applicant claims that he missed his flight to France and had to buy another ticket for 6th February 2022, when he eventually flew to France. According to the Applicant, the disruptions caused by the measures taken had financial implications therefore, he has brought the present claim for damages before the Court.

b) Pleas in law

12. The Applicant is relying on the following pleas in law:

- Articles 1, 2, 9, 22 and 30 of Protocol A/Pl/ 7/91 on the Community Court of Justice



- Articles 77 (3) and 59 of the Revised ECOWAS Treaty
- Article 25 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security,
- Article 26 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security and Article 27 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. Prevention, Management, Conflict Resolution, Peacekeeping and Security signed in Lome on 10 December 1999,
- Protocol A/SP.1/5/79 of Dakar of 25 May 1979 on the free movement of persons, right of residence and establishment.
- Article 2. (1-3) Protocol A/P/3/5/82 of 29 May 1982, signed in Cotonou and relating to Definition of Community Citizen,
- Protocol A/SP.1/7/86 of Abuja of 1 July 1986 on the right of residence, and
- the Protocol A/SP.2/5/90 of Banjul of 29 May 1990 on the right of establishment.

c) Reliefs sought

13. The Applicant requests the Community Court of Justice to:

- Adjudge and declare that the measures taken on 9 January 2022 by the 4th Extraordinary Summit of the ECOWAS Authority of Heads of State and Government, especially the immediate closure of the

land and air borders between ECOWAS countries and the Republic of Mali, are a clear violation of Articles 7 (3) and 59 of the Revised ECOWAS Treaty, 45 and 46 of the Protocol A/SP.1/12/01 of 21 December 2001 on Democracy and Good Governance supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, Article 25 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, Article 26 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security and Article 27 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. Prevention, Management, Conflict Resolution, Peacekeeping and Security signed in Lome on 10 December 1999, Protocol A/SP.1/5/79 of Dakar of 25 May 1979 on the free movement of persons, right of residence and establishment. Article 2. (1-3) Protocol A/P/3/5/82 of 29 May 1982, signed in Cotonou and relating to Definition of Community Citizen, Protocol A/SP.1/7/86 of Abuja of 1 July 1986 on the right of residence and the Protocol A/SP.2/5/90 of Banjul of 29 May 1990 on the right of establishment.

- Adjudge and declare that ECOWAS is liable for material, financial and moral damages suffered by the Applicant as a result of these measures which have no Community legal basis;
- Order ECOWAS to pay to the applicant the sum of 100 million CFA francs, for all causes of damage, subject to a penalty of 1 million CFA francs from the date of notification of the Court's judgment.



- Cancel all measures taken by the 4th Extraordinary Summit of the Authority of ECOWAS Heads of State and Government, held in Accra, Ghana, on 9 January 2022, in particular the closure of the land and air borders between the Member States and the Republic of Mali;
- Set a deadline of 30 days for the Community Commission to report back to the Court of enforcement of those measures;
- Order ECOWAS to pay the full costs of the proceedings.

VI. RESPONDENT'S CASE

14. The Respondent has neither entered an appearance nor defended the claims.

VII. PROCEEDINGS BEFORE THE COURT

Application for Default Judgment

15. The Applicant filed an application for Judgment by Default pursuant to Article 90 (1) of the Rules of Procedure and prays the Court for the following:

- Find and hold that it has requisite jurisdiction to grant this Application as prayed.
- Find and hold that the grant of this Application does not amount to a denial of the Respondents' right to fair hearing.
- Enter Default Judgment in favor of the Applicant and grant all the reliefs being sought by him in the Initiating Application.

16. In considering the claims of the Applicant and the application for judgment by default, the Court will formulate its analysis on the basis of Article 90 (4) of the Rules of the Community Court of Justice (hereinafter referred to as 'the Rules') to wit:



- Whether the application initiating the proceedings is admissible
- Whether the appropriate formalities have been complied with, and
- Whether the application appears well-founded.

17. It has long been settled that the Court, before giving judgment by default, is required to consider: whether the application initiating the proceeding is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded as per its ratio in **MOHAMMED EL TAYYIB BAH v. THE REPUBLIC OF SIERRA LEONE JUDGMENT NO ECW/CCJ/JUD/11/15** at page 9. Hence, the Court in this instance will proceed to adjudge the claims following the laid down parameters.

On whether the application initiating the proceedings is admissible

18. It is necessary to recall that the claim before the Court is for damages resulting from the alleged act of the Respondents which has been brought by an individual. Article 10 (c) of the Protocol of the Court (A/P1/7/91) as amended by the Supplementary Protocol (A/SP.1/01/05) (hereinafter referred to as the Supplementary Protocol) provides that *“Access to the Court is open to...individuals and corporate bodies in proceedings for the determination of an act or inaction of a Community Official which violates the rights of the individuals or corporate bodies.”*

19. This means that individuals that are seeking redress for the acts of a *Community Official* can access the Court under Article 10 (c) of the Protocol. The Court in **LINAS INTERNATIONAL NIGERIA LTD. V AMBASSADOR OF MALI & ORS. (2009) CCJELR** at page 271 held that Article 10 (c) of the Supplementary Protocol on the Court relates to acts committed by officials of the Community which causes injury or damage to an individual or legal entity. It also concerns



the failure of an official of the Community in the discharge of his functions which results in same.

20. The Court relies on the ratio in this jurisprudence, which remains good law in the present circumstance before it. Consequently, the Court declares the application admissible pursuant to Article 10 (c) of the Protocol of the Court (supra) on the one hand and declares that the Applicant has fulfilled Article 90 (4) (a) of the Rules of the Court on the other hand.

On whether the appropriate formalities have been complied with.

21. In dealing with the second criteria pursuant to Article 90 (4) (b) of the Rules of the Court, the Court finds it necessary to establish certain procedural facts leading up to the application for judgment by default.

22. In this regard, the Court recalls that the Applicant's initiating application was lodged on 24th May 2022, in the Registry of the Court and was electronically served on the Respondent via the Registry of the Court. After the effluxion of time, as per the Rules of the Court, the Applicant approached the Court on the 24th October 2023, seeking for a Judgment by Default pursuant to Article 90 of the Rules of the Court. It is a laid down law that following the lodgement of an initiating application, service on the Respondent pursuant to Article 34 is carried out which will attract the filing of a defence from the Respondent. When the Respondent fails to defend the cause and further fails to make an appearance, the Applicant earns the right to a judgment by default.

23. Therefore, in the instant case, the Respondent failed to defend the cause and to put in an appearance in the same. This prompted the application for judgment by default from the Applicant in accordance with the provision of the Rules, and having met the requirement under Article 90 (1) of the Rules, the Court is mandated to proceed with judgment as a matter of law. For ease of reference,

the Court will reproduce Article 90 (1) of the Rules which states that *“If a defendant on whom an application initiating the proceedings has been duly served fails to lodge a defense to the application in the proper form within the time prescribed, the Applicant may apply for judgment by default.”*

24. The Court having painstakingly recalled the proceedings, finds that application satisfies the condition in Article 90 (4) (b) of the Rules of the Court as it was appropriately brought and the formalities of admissibility having been met.

On whether the application appears well-founded

25. The third criteria requires that the Court takes into consideration the subject matter in the initiating application. In doing so, the Court is obligated to consider firstly, whether it has jurisdiction to hear and determine the claims, secondly, whether the application appears well-founded as Article 90 (4) (c) of the Rules of the Court requires.

26. In determining its competence on the one hand, the Court recalls that the Applicant has specifically premised his claim under the Court’s jurisdiction in Article 9 (1) (g) of the Supplementary Protocol (A/SP.1/01/05) amending the Protocol of the Court (A/P1/7/91) which states that *“[T]he Court has competence to adjudicate on any dispute relating to the... action for damages against a Community institution or an official of the Community for any action or omission in the exercise of official functions.”* In adjudging its competence, the Court must consider the question as to whether it can assume jurisdiction for a dispute depicted as resulting from an act deemed to be illegal as it runs contrary to Article 77 (3) of the Revised Treaty of ECOWAS, Articles 45 & 46 of the Protocol on Democracy and Good Governance (supra), Article 25 of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security and Article 2 (3) of the Protocol on Free

Movement of Persons, Residence and Establishment. All these provisions are within the body of law known as Community law and the Court is vested with the power of interpreting same.

27. It appears to this Court that the Article 9 (1) (g) Supplementary Protocol (*supra*) vests it with competence as long as a claim for damages is brought against a *Community Institution* among others, for acts or omission done in the exercise of its official function. This competence is reminiscent of the Court of Justice's (CJEU) ratio in *ABDURAHIM V COUNCIL AND COMMISSION* [2013] Case C-239/12P (28 May 2013) where the Court took a step towards protecting the rights of those subjected to the European Union sanctions. In the case of ECOWAS, Article 9 (1) (g) of the Supplementary Protocol, is a safeguard against the arbitrary promulgation of sanctions which will be detrimental to citizens by the Community institutions. It is the arbitrariness of the act itself that may result in a breach of Community law; a sanction enacted by the law of ECOWAS (i.e. Community law) when applied in a situation proscribed by law has legal basis, and will not be deemed arbitrary.
28. Having elucidated on how its competence is vested under Article 9 (1) (g) of the Supplementary Protocol (*supra*), the Court finds that it has competence to determine the claims before it.
29. Notwithstanding coming under Article 9 (1) (g) of the Supplementary Protocol, the Court recalls that the Applicant has also put forward that he has come under Article 9 (4) of the Supplementary Protocol which reads “[T]he Court has jurisdiction to determine cases of violation of human rights that occur in any Member States.”
30. At this juncture, the Court finds that it must instruct that human rights claims are premised on fundamental treaties ratified by Member States. Hence, the obligations under fundamental human rights treaties and conventions are

accrued to signatories, which are Member States. Therefore, the Respondents in the present claim, having not ratified any such treaty or convention, cannot be held liable for any breach resulting in a violation thereunder. This was finely articulated by the Court in the case of NATIONAL COORDINATION OF DEPARTMENT DELEGATES OF COCOA COFFEE SECTOR (CNDD) V. REPUBLIC OF COTE D'IVOIRE (2009) CCJELR at page 311 where it held that *"ECOWAS Member States as contracting parties of the ECOWAS Community law, or as guarantors for the implementation of human rights recognized in the Revised Treaty of ECOWAS, are obliged to subscribe to these rights, and may in that regard be sued before the principal legal organ of ECOWAS, i.e. the Community Court of Justice. Consequently, an individual may bring a proceedings against a Member State of the Community, before the Community Court of Justice."* Furthermore, Court notes that the Applicant has failed to reference the relevant treaty or convention under which it has premised the violation of human rights. It is the Court's view that the Applicant has arbitrarily included Article 9 (4) of the Supplementary Protocol and dismisses the inclusion as the Respondents cannot be held liable for human rights violations as envisaged thereunder.

31. In concluding on its competence, the Court will reiterate that the claim is properly within its competence under Article 9 (1) (g) of the Protocol of the Court (supra) and will proceed to analyse whether the claim appears well-founded.
32. As to the second arm of the analysis under this rubric, that is, adjudging whether the initiating application appears well-founded the Court finds it imperative to consider the subject matter of the Applicant's claim to enable it deduce the premise of the act or omission of the Respondent that resulted in a claim for damages. It will adjudge whether the application appears well-founded after



considering the legal basis (or lack thereof) of the action of the Respondent complained of, and the prevailing circumstances at the time of the act. It is axiomatic that the legal basis of the act or omission of the Respondent must be drawn from the Community law.

33. The Court notes the pleas in law put forward by the Applicant, and will resort to determining whether the act of the Respondent was arbitrary or establish the legal basis thereto, in order to adjudge whether the requirement under Article 90 (4) (c) of the Rules of the Court has been met.

34. In considering whether the act of the Respondent is arbitrary or whether it has legal basis, the Court recalls the pleas in law put forward by the Applicant *seriatim* in its analysis. This is because the Applicant has alleged that the act of the Respondent runs contrary to the pleas in law put forward.

35. First in the consideration of the Court is Article 77 (3) of the Revised Treaty of ECOWAS to wit:

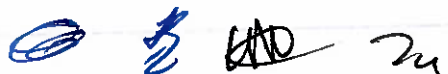
“Notwithstanding the provisions of paragraph 1 of this Article, the Authority may suspend the application of the provisions of the said Article if it is satisfied on the basis of a well supported and detailed report prepared by an independent body and submitted through the Executive Secretary, that the non-fulfilment of its obligations is due to causes and circumstances beyond the control of the said Member State.”

36. This provision gives the Respondent the mandate to act for the good of the community in ensuring that the Member States adhere to their commitments. Therefore, the Court views the Applicant's claim that the Respondent implemented measures against the Republic of Mali that were detrimental to him as an ECOWAS citizen (who was within the jurisdiction at the time) absurd as Article 77 (3) of the Revised Treaty gives it the mandate to act. It is noted by

the Court, that the Applicant is claiming for damages as he was prevented from travelling by measures imposed by the Respondent which led to him expending huge sums in trying to return to his country (Ivory Coast). The Court must direct that a claim for damages for acts of a Community Official should not amount to an absurdity but must be linked to an arbitrary use of Community law. Only where the act is arbitrary can the Court impute the act to the Respondent as a breach of Community law and award damages where it is sought.

37. The Court recalls that the Republic of Mali had ceased to function as envisaged under the Revised Treaty (*supra*) hence, it was necessary that the Respondent resort to various legal provisions in fulfilment of its obligations. Being mindful that the situation in the Republic of Mali in 2021, caused the ECOWAS Authority at a summit in Ghana to impose sanctions which included border closures, travel bans on 6th November 2021. The Court notes that a second wave of sanctions was imposed as a result of the continued impasse in the Republic of Mali. Following the putsch of September 2021, and after the interim authorities in Mali informed ECOWAS of its inability to meet with the February 2022 deadline for the handing over to democratic power, the Authority of ECOWAS was forced to impose further sanctions. Thus, the Communiqué of 9th January 2022 by ECOWAS was issued and it stated *inter alia* that:

1. *Following the visit of the Mediator to Mali on 5 January 2022, the Transition Authorities submitted on 8 January 2022, a new calendar scheduling the conduct of the presidential elections for the end of December 2025, setting the duration of the transition for a total of five and a half years (5.5) years.*
2. *The Authority finds the proposed calendar for a transition totally unacceptable. This calendar simply means that an*



illegitimate military transition Government will take the Malian people hostage during the next five years. The Authority reiterates its call for the transition authorities to focus on activities geared towards an expeditious return to constitutional order and to defer key reforms within legitimate elected institutions to be established after the elections.

3. *In view of the above, the Authority decides to uphold the initial sanctions already imposed on Mali and on the transition authorities. The Authority also decides to impose additional economic and financial sanctions, in conformity with its deliberations at its Sixtieth Ordinary Session held on 12 December 2021 in Abuja, Federal Republic of Nigeria. These additional sanctions include:*

a) Recall for consultations by ECOWAS Member States of their Ambassadors accredited to Mali;

b) Closure of land and air borders between ECOWAS countries and Mali;

c) Suspension of all commercial and financial transactions between ECOWAS Member States and Mali, with the exception of food products, pharmaceutical products, medical supplies and equipment, including materials for the control of COVID-19, petroleum products and electricity;



d) Freeze of assets of the Republic of Mali in ECOWAS Central Banks;

e) Freeze of assets of the Malian State and the State Enterprises and Parastatals in Commercial Banks;

f) Suspension of Mali from all financial assistance and transactions with all financial institutions, particularly, EBID and BOAD.

38. While the decision to impose sanctions is provided for in the Community Law of Article 77 (3) of the Revised Treaty (supra), the Court notes that this is guided further by the tenet laid down in Article 1 (b) & (c) of the Protocol A/SP1/12/01 on Democracy and Good Governance, Supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution Peacekeeping and Security and acted on pursuant to Article 45 (1) of the same. This is the second body of law relied on by the Applicant. Article 1 (b) & (c) of the Protocol A/SP1/12/01 (supra) provides that “[T]he following shall be declared as constitutional principles shared by all Member States: b) [E]very accession to power must be made through free, fair and transparent elections; c) Zero tolerance for power obtained or maintained by unconstitutional means;...” These two provisions lay down the principle upon which the Respondent will base any application of Article 45 (1) of the Protocol A/SP1/12/01 (supra) which provides that “[I]n the event that democracy is abruptly brought to an end by any means or where there is massive violation of human rights in a Member State, ECOWAS may impose sanctions on the State concerned.” The latter is the third body of law relied on by the Applicant; all these provisions adduce legal basis for the imposition of sanctions on a Member State contrary to the Applicant’s claim.



39. The Court notes that the Final Communiqué of the 4th Extra-Ordinary Summit of the ECOWAS Authority of Heads of State and Government on the Political Situation in Mali, took note of the report of H.E. Dr Goodluck JONATHAN, Former President of the Federal Republic of Nigeria and ECOWAS Mediator for Mali and the Memorandum on the political situation in Mali as presented by H.E. Jean-Claude Kassi BROU, President of the ECOWAS Commission. The Court recalls the wording of the said Communiqué, to wit *“The Authority, during deliberations, regrettably observed the failure of the Transition authorities in Mali to take the necessary steps for the organisation of the Presidential elections before 27 February 2022 and contrary to the agreement reached with ECOWAS Authority on 15 September 2020 and the commitment in the Transition Charter. The Authority deeply deplores the obvious and blatant lack of political will from the Transition authorities that led to the absence of any tangible progress in the preparations for the elections, despite the willingness of ECOWAS and all regional and international partners to support Mali in this process.”* It is axiomatic to the Court that any regime that is undemocratic violates the human rights of citizens, simpliciter; hence the implementation of Article 45 (1) of the Protocol A/SP1/12/01 (supra) is an affirmative action.

40. The Court considers that the preceding analysis has sufficiently detailed that the act complained of by the Applicant was taken by the Respondent in furtherance of its mandate. Thus, the Court finds that the act of the Respondent in imposing sanctions on the Republic of Mali is legal and not arbitrary.

41. In adjudging whether the application appears well-founded, having established that the act complained of is legal, the Court recalls the facts alleged by the Applicant. It is his claim that his air travel scheduling, which started on 6th December 2021 culminating on 15th January 2022, was disrupted by the

Communique of 9th January 2022 and resulted in financial loss for which he is claiming for damages. The Court however, will consider the facts and the prevailing circumstances to adjudge if Article 90 (4) (c) of the Rules has been met.

42. In this wise, the Court views the timing of the Applicant's actions vis-à-vis the prevailing conditions in Mali, and places his timing between the second and third *coups d'etat*. In claiming for damages for acts which are legal under the Community law, the temporal period of the claim, divests the Applicant of the identity as '*an innocent bystander*'. What is apparent to the Court is that 2021 was a year of political turmoil in the Republic of Mali, leading to the imposition of several sanctions at various points in the year. Prior to the 9th January 2022 sanctions, the Respondents had instituted sanctions on the 6th November 2021 as the situation in Mali was severely abnormal. The Court relies on and reproduces Article 25 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security or 10th December 1999 which provides that "*The Mechanism shall be applied in any of the following circumstances: ... (c) in case of internal conflict: (i) that threatens to trigger a humanitarian disaster, or (ii) that poses a serious threat to peace and security in the sub-region; d) in event of serious and massive violation of human rights and rule of law. (e) In the event of an overthrow [er](sic) attempted overthrow of a democratically elected government; ...*" this body of law is also relied on by the Applicant and it gives the Respondent legal basis to apply Article 25 (supra) upon the initiation of Article 26 of the Protocol Relating to the Mechanism for Conflict (supra) which provides that "[T]he mechanism shall be put into effect by any of the following: (a) Upon the decision of the Authority." Following its reasoning on the timing of the act leading to the claim, the Court notes that the Respondent's act of sanctions with regards to the

political situation in Mali, predated the Applicant's commencement date of 'cause', 6th December 2021. Further, all sanctions imposed by the Respondent regarding Mali were based on Community law which is intended to safeguard the rights, well-being, development and integration of the Community. The Court cannot therefore, view the Applicant as an innocent bystander when it is evident that at the commencement of his travels to Mali there was a sanction in place. Consequently, the sanction of 9th January 2022, which he claims resulted in personal damage to him was a continuation of measures laid down by law as there was no improvement in the situation in Mali. The Court finds that all the sanctions imposed by the Respondents were premised on Community law and not arbitrary or aimed at breaching its legal obligations to citizens.

43. Based on the foregoing analysis, the Court relies on the Judgement of the Court (Grand Chamber) of 14 October 2014 in GÉRARD BUONO AND OTHERS (C-12/13 P) AND SYNDICAT DES THONIERES MÉDITERRANÉENS AND OTHERS (C-13/13 P) V EUROPEAN COMMISSION where the European Court rejected the possibility of liability for damages in cases of lawful acts by the European Union. In like manner, this Court in the present claim, rejects the possibility of a liability of damages resulting from a legal act of the Respondents.

44. In consequence therefore, the Court dismisses all claims brought by the Applicant and declares that the initiating application does not appear well-founded. Consequently, the Court finds that the condition under Article 90 (4) of the Rules of the Court have not been cumulatively met and strikes out the claim.



VIII. OPERATIVE CLAUSE

For the reasons stated above the Court sitting in public after hearing both parties:

As to jurisdiction:

- i. **Declares** that it has jurisdiction.

As to admissibility:

- ii. **Declares** the application admissible.

As to merits of the case:

- iii. **Declares** that the application is not well-founded and dismisses the claims.
- iv. **Dismisses all other claims.**

Hon, Justice Sengu M. **KOROMA**/Judge Rapporteur


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Hon. Justice Dupe **ATOKI**


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Hon. Justice Edward Amoako **ASANTE**


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Dr. Athanase **ATANNON** -Deputy Chief Registrar


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Done in Abuja, this 14th day of February, 2025 in English and translated into French and Portuguese.

