AFRICAN UNION		UNION AFRICAINE
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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

BABAROU BOCOUM

V.

REPUBLIC OF MALI

APPLICATION NO. 023/2020

JUDGMENT

13 NOVEMBER 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, Dennis D. ADJEI, Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In accordance with Article 22 of 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") and Rule 9(2) of the Rules of Court (hereinafter referred to as "the Rules"), Judge Modibo SACKO, a national of Mali, did not hear the Application.

In the matter of

Babarou BOCOUM

Represented by:

i. Ms Mariam DIAWARA, Advocate;
ii. Ms Issa K. COULIBALY, Barrister;
iii. Mr Philippe ZADI, Legal Practitioner.

Versus

THE REPUBLIC OF MALI

Represented by:

i. Mr Youssouf DIARRA, Director-General of State Legal Affairs;
ii. Mr Daouda DOUMBIA, Deputy Director-General for State Litigation;
iii. Mr Gaoussou KEITA, Director of General Affairs.

After deliberation,

Renders this Judgment:

I. THE PARTIES

1. Mr. Babarou BOCOUM (hereinafter referred to as "the Applicant") is a Malian national. At the time of filing the present Application, he was an entrepreneur and Political Affairs Secretary of the African Democracy and Independence Solidarity Party (SADI), a political party registered in the Republic of Mali. He alleges, in particular, violation of his right to vote during the 29 March 2020 parliamentary elections.

2. The Application is filed against the Republic of Mali (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 October 1986 and to the Protocol on 20 June 2000. The Respondent State also deposited, on 19 February 2010, the declaration Article 34(6) of the Protocol (hereinafter referred to as "the Declaration"), by virtue of which it accepts the Court's jurisdiction 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. The Applicant avers that, as a citizen of the Respondent State, he is captured in the biometric database of the Respondent State's civil registry and enjoys his civil and political rights, since he is not subject to any disqualification or prohibition under the law. He further avers that, due to the failure to update the voter register – in violation of the law – he was not included on it, an omission which deprived him of his status as a voter and, consequently, of his right to vote in the 29 March 2020 parliamentary elections.

4. The Applicant further contends that the failure to update the voter register also undermined the integrity of the electoral process. In his view, Decree No. 2020-0010/PRM of 22 January 2020 setting the date for elections was issued contrary to the requirements of the Elections Act, as it was based on a voter register that was not duly updated.

5. The Applicant further argues that this illegality persisted with the connivance of the Constitutional Court,[1] the judgment of which validated the electoral process, insofar as it upheld the elections despite the alleged failure to update the voter register.

6. The Applicant therefore maintains that the parliamentary elections were held in violation of the Respondent State's international obligations, in particular those arising from the human rights instruments to which it is a Party.

B. Alleged violations

7. The Applicant alleges violation of the following rights and obligations:

   i. The right to equality before the law and to equal protection under the law, protected by Article 3 of the African Charter on Human and Peoples' Rights (hereinafter "the Charter"), Article 10(3) of the African Charter on Democracy, Elections and Governance (hereinafter "ACDEG"), Article 3 of Protocol A/SP1/12/01 on Democracy and Good Governance of ECOWAS (hereinafter "the ECOWAS Protocol on Democracy"), Article 1 of the Universal Declaration of Human Rights (hereinafter "the UDHR");
   ii. The right to participate freely in the government of one's country, protected by Article 13(1) of the Charter;
   iii. The obligation to establish an independent, neutral and credible electoral dispute resolution mechanism, protected by Article 17 of the ACDEG and Articles 3 and 7 of the ECOWAS Protocol on Democracy;

[1] Judgment No. 2020-04/CC-EL of 30 April 2020, Announcing the Final Results of the Second Round of Elections for Members of the National Assembly (Election Held on 19 April 2020).

iv. The obligation to establish an independent and impartial electoral body, protected by Article 17 of the African Charter on Democracy and Articles 3 and 6 of the ECOWAS Protocol on Democracy;

v. The obligation to organise elections on the dates or within the timeframes provided for in the Constitution and the Electoral Law, under Article 2(2) of the ECOWAS Protocol on Democracy.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

8. On 16 June 2020, the Application together with a request for provisional measures were filed with the Registry. The Application and the request for provisional measures were served on the Respondent State for its Responses within 90 days and 72 hours respectively.

9. On 5 August 2020, the Respondent State filed its Response to the request for provisional measures, which was served on the Applicant.

10. On 1 September 2020, the Respondent State filed its Response to the Application, which was served on the Applicant on 4 September 2020.

11. On 21 September 2020, the Applicant filed his Reply, which was notified to the Respondent State. In the Reply, he prayed the Court to declare his request for provisional measures seeking the necessary steps to safeguard his electoral rights and the suspension of any legislative activity inconsistent with the provisions of Articles 1(b) and 2(2) of the ECOWAS Protocol on Democracy moot. In support of his request, he argued that, following mass protests and the intervention of the armed forces, the President of the Republic dissolved the National Assembly and subsequently resigned.

12. On 23 October 2020, the Court declared the request for provisional measures moot. The Ruling was served on the Parties the same day.

13. Pleadings were closed on 30 June 2022, and the Parties were duly informed.

IV. PRAYERS OF THE PARTIES

14. The Applicant prays the Court to order the Respondent State to:

i. Annul the parliamentary elections organised pursuant to Decree No. 2020-0010/PRM of 22 January 2020 calling elections and setting the dates for the opening and closing of the election campaign for the 29 March 2020 election, as well as Judgment No. 2020-04/CC-EL of 30 April 2020 of the Constitutional Court announcing the final results of the first and second rounds of the parliamentary elections;

ii. Update the voter register, in accordance with the applicable provisions of domestic law, in order to ensure the effective participation of Malian citizens in the exercise of universal suffrage, and to complete all subsequent procedures necessary for the organisation of elections in compliance with legal requirements;

iii. Take the necessary constitutional and legislative measures to amend: Article 92 of the Constitution of Mali; Organic Law No. 97-010 of 11 February 1997 on the rules governing the structure and functioning of the Constitutional Court and the procedure to be followed before it, as amended by Law No. 02-011 of 5 March 2002; Law No. 2016-048 of 17 October 2016, as amended by Law No. 2018-014 of 23 April 2018 on elections; as well as the Constitutional Court's Rules of Procedure of 28 August 2002, in order to ensure their compliance with the treaty obligations relating to the establishment of a credible electoral dispute resolution mechanism, as provided for by Article 17 of ACDEG, Articles 3 and 7 of the ECOWAS Protocol A/SP1/12/01, as well as the guarantees under the principle of equality before the law and equal protection under the law, enshrined in particular in Article 3 of the Charter, Article 1 of the UDHR and Article 26 of the ICCPR;

iv. Amend Electoral Law No. 06-044 of 4 September 2006, as amended by Laws No. 2011-085 of 30 December 2011 and No. 2016-017 of 21 May 2016, in order to ensure its compliance with the obligations arising from

Articles 3 and 6 of the ECOWAS Protocol A/SP1/12/01 and Article 17(1) of the CAD, in particular by establishing an independent National Electoral Commission, in line with international legal standards on democratic governance and the integrity of electoral processes;

v. Pay him the sum of 100,000,000 CFA francs as reparation for all the harm suffered, in particular financial, material and moral harm, and to order the Respondent State to bear costs and expenses.

15. In its Response, the Respondent State prays the Court to:

i. Declare that the Application is unfounded; and
ii. Order the Applicant to bear all costs.

V. ON JURISDICTION

16. The Court notes that Article 3 of the Protocol provides:

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.

17. Under Rule 49(1) of the Rules, "[t]he Court shall ascertain its jurisdiction and the admissibility of an Application in accordance with the Charter, the Protocol and these Rules".

18. Based on the aforementioned provisions, the Court, in every application, must conduct a preliminary examination of its jurisdiction and rule on any objections thereto, if any.

19. In the present case, the Respondent State does not contest the Court's jurisdiction. However, in accordance with Rule 49(1) of the Rules, the Court

must ensure that the requirements relating to all aspects of its jurisdiction are met.

20. Having found that there is nothing in the record to suggest that it lacks jurisdiction, the Court considers that it has:

    i. Material jurisdiction, insofar as the Applicant alleges violation of human rights protected by the Charter, the ECOWAS Protocol on Democracy and the ICCPR,[2] human rights instruments to which the Respondent State is a Party;[3]
    ii. Personal jurisdiction, insofar as the Respondent State is a Party to the Protocol and has deposited the Declaration on 19 February 2010, as indicated in paragraph 2 of this Judgment;
    iii. Temporal jurisdiction, insofar as the violations alleged by the Applicant occurred after the Respondent State became a Party to the Protocol.[4]
    iv. Territorial jurisdiction, insofar as the alleged violations occurred on the territory of the Respondent State, which is a Party to the Charter and the Protocol.

21. In the light of the foregoing, the Court considers that it has jurisdiction to hear the present Application.

VI. ON ADMISSIBILITY

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

[2] Mali became a Party to the International Covenant on Civil and Political Rights (ICCPR) on 16 July 1974. The instrument entered into force in respect of Mali on 23 March 1976.
[3] *Actions pour la Protection des Droits de l'Homme (APDH) v. Republic of Côte d'Ivoire* (merits) (18 November 2016) 1 AfCLR 668, §. 65.
[4] *Kouadio Kobena Fory v. Republic of Côte d'Ivoire*, (merits and reparations) (2021) 5 AfCLR 682, § 27.

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

23. Under Rule 50(1) the Rules, The Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6 (2) of the Protocol and these Rules.

24. Rule 50(2) of the Rules, which essentially restates the provisions of Article 56 of the Charter, provides:

> 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 Law 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.

25. The Court notes that the Respondent State does not raise any objection to the admissibility of the Application. However, in accordance with Rule 50(1) of the Rules, the Court must satisfy itself that the requirements under the aforementioned provisions are met.

26. The Court observes that it emerges from the record that the Applicant is clearly identified by name, in compliance with Rule 50(2)(a) of the Rules.

27. The Court notes that the Applicant's requests seek to protect his fundamental rights guaranteed by the Charter and other international human rights instruments. It notes, in fact, that one of the objectives of the Constitutive Law of the African Union, as set out in Article 3(h) thereof, is the promotion and protection of human and peoples' rights. Furthermore, there is no evidence in the record that it is inconsistent with the Constitutive Law of the African Union. The Court therefore considers that the Application meets the requirement of Rule 50(2)(b) of the Rules.

28. The Court further notes that the language in which the Application is drafted is neither disparaging nor insulting to the Respondent State, its institutions or the African Union, so that it is in compliance with Rule 50(2)(c) of the Rules.

29. The Court also notes that the Application is not based exclusively on news disseminated in the mass media, but on judicial documents issued by the domestic courts of the Respondent State. The Court therefore considers that the Application complies with Rule 50(2)(d) of the Rules.[5]

30. With regard to the requirement of exhaustion of local remedies under Rule 50(2)(e) of the Rules, the Court notes that the non-registration of the Applicant in the voter register is the main grievance that led to the present Application to which the other claims are ancillary or derivative. It is therefore preliminary to assess compliance with the requirement of exhaustion of local remedies in respect of the Applicant's non-registration in the voter register.

[5] *Kouamé Patrice Kouassi and Baba Sylla v. Côte d'Ivoire* (merits and reparations) (2022) 6 AfCLR 726, §. 55.

31. The Court recalls its jurisprudence that the remedies to be exhausted in order to comply with the requirement of Rule 50(2)(e) of the Rules are judicial remedies,[6] unless same are unavailable, ineffective or unsatisfactory, or the related proceedings are unduly prolonged.[7]

32. The Court notes that the Applicant alleges that he was not registered in the voter register due to the Respondent State's failure to revise the said register, in violation of the electoral law, and that, having thus been deprived of his status as a voter, he was unable to vote in the first and second rounds of the 29 March 2020 parliamentary elections.

33. The Court notes that the Applicant contends that no local remedy exists against Decree No. 2020-0010/PRM of 22 January 2020 setting the date for elections and setting the start and end dates of the election campaign for the parliamentary elections, as the decree is an act of the Government not subject to judicial review. He further submits that he lacked standing to bring legal proceedings against the said Law because it did affect him personally and directly.

34. The Applicant further submits that local remedies against the Constitutional Court's Judgments No. 2020-03/CC-EL of 9 April 2020 and No. 2020-04/CC-EL of 30 April 2020, by which it announced the disputed final results, are not available.

35. The Court notes that pursuant to Law No. 2016-048 of 17 October 2016 on the Electoral Code,[8] as amended by Law No. 2018-014 of 23 April 2018, a complaint regarding an omission from the voter register is subject to procedures that reflect its individual nature. Indeed, Article 54 of the

[6] *Fory v. Côte d'Ivoire*, *supra,* §. 47.
[7] *Safinaz Ben Ali and Lamia Jendoubi v. Republic of Tunisia*, AfCHPR, Application No. 009/2023, Judgment of 3 September 2024 (jurisdiction and admissibility), § 49.
[8] Article 54 of Law No. 2016-048 of October 17, 2016, on the Electoral Code, provides: "Complaints shall be recorded in a register opened for this purpose by the chair of the administrative commission. They shall be entered in chronological order and must include the last name, first name, and address of each complainant, as well as a statement of the grounds on which they are based. A complaint may be made orally. In all cases, a receipt must be issued."

aforementioned law provides that every complaint must be recorded in a register and must include the last name, first name, and address of each complainant, as well as the grounds on which the complaint is based. It follows from these procedures that this remedy must be exercised by the person concerned. It was therefore for the Applicant – who contends that the failure to update the voter register resulted in his exclusion therefrom – to personally exercise this remedy in order to have the omission rectified prior to filing the present Application with the Court.

36. The Court notes that, pursuant to Articles 55 through 60 of the Malian Electoral Law, Law No. 2018-014, any voter whose name does not appear on the voter register may request to be registered before the register is definitively closed. To that end, the person concerned may file a complaint with the Administrative Commission, which may grant the request and proceed to register the complainant on the voter register.

37. Where the request for registration is rejected, Article 55 of the Electoral Law requires the Administrative Commission to notify the applicant of its reasoned decision within five days and to inform the applicant of his/her right to bring the matter before a civil court within ten days of such notification. A civil court, ruling at first instance, may either uphold the Administrative Commission's decision or overturn it by recognizing the complainant's right to be registered on the voter register. The civil court must render a decision within ten days.

38. The civil court's decision, which must be served within seven days, is subject to appeal, and the Court of Appeals must render a decision within 15 days.[9]

39. The Court notes that the effectiveness and adequacy of these remedies stem from the fact that they allow a citizen whose name does not appear on the voter register to be registered on the final voter register, which must be exhibited no later than seven days before the election.

40. The Court notes that these provisions avail voters judicial remedies to challenge their registration, non-registration, or removal from the register. The Court considers that, under these circumstances, the Applicant had adequate local remedies available to challenge his electoral status if he believed his right to vote was violated.

41. The Court notes, however, that there is nothing on the record to establish that the Applicant pursued the available local remedies to challenge the alleged failure to update the voter register, which alleged violation is the main ground of the Application and from which, in particular, his non-inclusion on said register is said to stem. Accordingly, the Court finds that the Applicant did not meet the requirement of exhaustion of local remedies under Rule 50(2)(e) of the Rules.

42. Having found that the Applicant did not exhaust local remedies and given that the admissibility requirements are cumulative, the Court considers it unnecessary to examine the last two admissibility requirements under Rule 50(2)(f) and (g) of the Rules.

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[9] Article 55 of Law No. 2018-014 provides: "In the event of the Administrative Commission rejecting an application for registration, this decision shall be notified to the person concerned by the State representative in the Arrondissement, the District and the Ambassador or Consul within five (5) days, in writing or by any other means. The notice of notification shall specify the grounds for the decision, the date of publication of the electoral roll or the corrigendum, and shall inform the person concerned that they may, within ten (10) days of notification, challenge the decision to refuse registration before a civil court. A record of this notification and its date shall be entered in the register provided for that purpose. Article 56 provides: "The judge must give a ruling within ten (10) days, free of charge. He must notify the decision within seven (7) days. The judge's decision may be appealed within ten (10) days of its notification to the person concerned".

43. In light of the foregoing, the Court declares the Application inadmissible.

VII. ON COSTS

44. The Applicant prays that the Respondent State be ordered to bear costs.

45. For its part, the Respondent State prays the Court to dismiss the prayer.

46. The Court notes that under Rule 32(2) of the Rules, "[u]nless otherwise decided by the Court, each party shall bear its own costs, if any".

47. The Court observes that, whilst the Parties request that costs be borne by the opposing Party, they do not demonstrate the existence of any special circumstances warranting a departure from the principle that each party bears its own costs. It also points out that proceedings before it are free of charge.

48. Consequently, the Court considers that, in the present case, there is no reason to depart from the principle that each party shall bear its own costs.

VIII. OPERATIVE PART

49. For these reasons:

THE COURT,

Unanimously,

On jurisdiction

i. *Declares* that it has jurisdiction.

On admissibility

ii. *Declares* the Application inadmissible for non-exhaustion of local remedies.

Signed by:

Blaise TCHIKAYA, President

Chafika BENSAOULA, Vice-President;

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Stella I. 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 Thirteenth Day of November in the year Two Thousand and Twenty-Six, in French and English, the French version being authoritative.

