



AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES
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Application No. 013/2011 – Claimants of Late Nobert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo and the Burkinabé Movement on Human and Peoples' Rights

v.

Burkina Faso.

(i) The allegations of the Applicant

6. The Application alleges that *the facts* date back to the assassination of Norbert Zongo, an investigative journalist and his companions Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo on the 13th of December 1998. Messrs Ablasse Nikiema and Blaise Ilboudo were aides to Mr. Zongo, while Ernest Zongo was his younger brother.
7. On the *legal provisions invoked*, the application/complaint makes reference to:
 - Articles 1, 3, 4, 7 and 9 of the African Charter on Human and Peoples' Rights;
 - Article 66.2 (c) of the revised Treaty of the Economic Community of West African States (ECOWAS);
 - Articles 2(3), 6(1), 14 and 19(2) of the International Covenant on Civil and Political Rights;
 - Article 8 of the Universal Declaration on Human Rights (paragraphs 6 and 52).
8. On the *material jurisdiction* of the Court, the Applicants allege that it is based on violations of the provisions of the legal instruments listed in the

preceding paragraph. They state in particular that "instead of fulfilling that obligation (protection of the right to life and guaranteeing the existence of effective protective measures when such rights are violated), Burkina Faso, had manifestly and repeatedly, chosen to frustrate the efforts of the families of Norbert Zongo and his companions, which efforts were aimed at making those responsible for the assassination account for their conduct" (paragraphs 7 and 12).

9. On the *temporal jurisdiction* of the Court, the applicants explain that, though the alleged violations occurred before the entry into force of the Protocol to the African Charter which established the Court, they "had continued to apply ever since and thereby constituted violations under the African Charter and other applicable legal instruments to the extent that it falls within the purview of the temporal jurisdiction of the Court" (paragraph 18).

10. On the *admissibility of the application*, the applicants submit that all local remedies had been exhausted by the complainants and, in particular, that "an appeal before the "Cour de Cassation" would have been futile as it was common knowledge that the Supreme Court required some five years after it is seized to render judgment on any case..." (paragraph 48)

They also affirmed that this matter had not been brought before any other international human rights jurisdiction. (paragraph 51)

11. The applicants make their *submissions* and pray the Court to:
- Declare the application admissible;
 - Find that Burkina Faso is in breach of the relevant provisions of the Universal Declaration of Human Rights and the above-mentioned legal instruments (paragraph 7);
 - Order Burkina Faso to pay to the claimants concerned and to the MBDHP a range of specific damages and compensation (paragraph 52).

II. Respondent's Reply

12. In the Respondent's brief dated 11 April 2012 and received at the Registry of the Court on 17 April 2012, the Respondent State raises objections with regard to temporal jurisdiction, the inadmissibility of the Application arising