

**JUDGMENT NO.
05/2019
FROM 15 MAY 2019**

**COURT OF JUSTICE OF THE WEST
AFRICAN ECONOMIC AND
MONETARY UNION (WAEMU)**

PUBLIC HEARING ON 15 MAY 2019

The Court of Justice of the WAEMU, meeting in ordinary public session on the fifteenth day of May in the year two thousand and nineteen, in which were seated :

Action for annulment of decision

Mrs Joséphine Suzanne EBAH/TOURE, Chairman ;
Mr Salifou SAMPINBOGO, Judge-Rapporteur; Mr Mahawa Sémou DIOUF, Judge; Mr Euloge AKPO, Judge; Mr Augusto MENDES, Judge;

Mr Yao Barnabé YEBOUET C/

In the presence of Ms Eliane Victoire ALLAGBADA JACOB, Advocate General;

Council of Ministers and Banking Commission
of the West African Monetary Union (WAMU)

With the assistance of Me Hamidou YAMEOGO, Registrar ;

Delivered the following judgment:

BETWEEN

Composition of the Court :

Mr Yao Barnabé YEBOUET, of Ivorian nationality, born on 11 June 1954 in Kondehinou S/P Languibonou, residing in Abidjan, having as counsel the Société Civile Professionnelle d'Avocats Takoré, Konan et Associés, located in Abidjan, Cocody les deux plateaux, 06 BP 2619 Abidjan 06, lawyers registered with the Côte d'Ivoire Bar,

- Mrs Joséphine Suzanne EBAH/TOURE, Chairman ;
- Mr Salifou SAMPINBOGO, Judge-Rapporteur ;
- Mr Mahawa Sémou DIOUF, Judge ;
- Mr Euloge AKPO, Judge ;
- Mr Augusto MENDES, Judge ;

- Ms Eliane Victoire ALLAGBADA JACOB, Advocate General ;

- Mr Hamidou YAMEOGO, Registrar

Plaintiff, on the one hand ;

AND

The Council of Ministers of the West African Monetary Union (WAMU) and the WAMU Banking Commission, advised by Société Civile Professionnelle d'Avocats N'GOAN, ASMAN & ASSOCIES, Avocats inscrits au Barreau de Côte d'Ivoire and Cabinet Benoît Joseph SAWADOGO, Avocats inscrits au Barreau du Burkina Faso,

Defendant, of the other part ;

THE COURT

HAVING REGARD TO the Treaty of the West African Economic and Monetary Union dated 10 January 1994, as amended on 29 January 2003;

HAVING REGARD TO Additional Protocol No. 1 on the supervisory bodies of the WAEMU ;

HAVING REGARD TO Additional Act No. 10/96 of 10 May 1996 on the Statutes of the Court of Justice of the WAEMU ;

HAVING REGARD TO Regulation No. 01/96/CM of 05 July 1996 on the Rules of Procedure of the WAEMU Court of Justice;

HAVING REGARD TO Regulation n°01/2012/CJ of 21 December 2012 on the Administrative Rules of the Court of Justice of the WAEMU ;

HAVING REGARD to Minute No. 01/2016/CJ of 25 May 2016 on the appointment of the President of the Court and the distribution of functions within the Court;

HAVING REGARD TO Minutes No 02/2016/CJ of 26 May 2016 relating to the swearing-in and installation of the members of the WAEMU Court of Justice;

HAVING REGARD to Order No 004/2019/CJ of 08 February 2019 on the composition of the plenary session to sit in ordinary public hearing on 13 March 2019;

HAVING REGARD to Order No. 012/2019/CJ of 09 May 2019, establishing the composition of the plenary session to sit in ordinary public hearing on 15 May 2019;

HAVING REGARD TO the summonses of the parties ;

HAVING REGARD TO the documents in the file ;

HAVING REGARD to the application by Mr Yao Barnabé YEBOUET for annulment of the Decision, registered at the Registry of the Court of this court on 03 September 2014, under number 14R001 ;

HEARD the Judge-Rapporteur in his report;

HEARING the oral submissions of counsel for the plaintiff; **HEARING**

the oral submissions of counsel for the defendant; **HEARING** the oral

submissions of the First Advocate General;

Having deliberated in accordance with Community law :

I- FACTS AND PROCEDURE

By initial application dated 02 September 2014, registered at the clerk's office of the Cour de céans on 03 September 2014 under No. 14R001 and then regularised on 17 November 2014, Mr YEBOUET Yao Barnabé, formerly Acting Deputy Managing Director of the company known as Banque pour le Financement de l'Agriculture, in abbreviated form BFA, having as Counsel the Société Civile Professionnelle d'Avocats Takoré, Konan et Associés, located in Abidjan, Cocody-les deux plateaux, 06 BP 2619 Abidjan 06, has lodged an appeal for the annulment of Decision no. CM/UMOA/014/06/2014 of the Council of Ministers of the West African Monetary Union (UMOA) confirming Decision no. 762/CB/C of the Banking Commission prohibiting him from acting as a manager of a credit institution or a decentralised financial system.

During an audit carried out by the WAMU Banking Commission at the BFA, several grievances and irregularities were found against Mr YEBOUET Yao Barnabé, who was acting Deputy General Manager of the BFA. These irregularities compromised the smooth running of the BFA.

Mr YEBOUET Yao Barnabé was then dismissed by Order No. 763/MPMEF/Cab of 19 November 2013 of the Ivorian Minister in charge of the Economy and Finance, suspending him from his duties as Acting Deputy Managing Director of the Bank for the Financing of Agriculture (BFA).

The Commission Bancaire then issued Decision no. 762/CB/C of 13/12/13 :

- *"Acknowledged that Mr YEBOUET has ceased to hold the position of Chief Executive Officer;*
- *Prohibition on exercising administrative, management or executive functions in a credit institution or decentralised financial system in the Union, in view of the synergy between the banking and microfinance sectors".*

Against this decision of the Banking Commission, Mr YEBOUET, by request dated 09 April 2014, lodged an appeal with the WAMU Council of Ministers, in accordance with the provisions of Article 38 of the Annex to the Agreement of 06 April 2007 governing the WAMU Banking Commission, with a view to:

- *"Find that the Commission Bancaire could not validly sanction Mr Yebouet on the grounds that he was no longer in office when the sanction was imposed;*

- *To declare that the Commission Bancaire may not impose sanctions other than those provided for in Article 28 of the Annex to the Agreement of 06 April 2007;*
- *Declare that the complaints against the above-mentioned are not relevant;*
- *Declare null and void decision no. 762/CB/C of 13 December 2013 prohibiting Mr YEBOUET from exercising administrative, management or executive functions in a credit institution or decentralised financial system in the WAMU".*

The Council of Ministers of the West African Monetary Union has, by Decision No CM/UMOA/014/06/2014 of 28 June 2014, decided:

"Article 1:

The WAMU Council of Ministers declares admissible, in form, the appeal lodged by Mr YAO Barnabé YEBOUET, on 09 April 2014, against Decision n° 762/CB/C of 13 December 2013 of the WAMU Banking Commission, prohibiting him from exercising the functions of administration, management of a credit institution or a decentralised financial system, on the grounds of breaches observed in the management of the Banque pour le financement de l'Agriculture (BFA) and directly engaging the personal liability of the above-mentioned.

Article 2:

The above-mentioned Decision of the WAMU Banking Commission is well-founded, in view of the materiality of the grievances raised, compliance with the procedures in force and the relevance of the defence measure of a ban on exercising administrative, management or executive functions, in addition to the reprimand imposed on the credit institution.

In addition, it is proportionate to the seriousness of the breaches and in line with the precautionary principle aimed at protecting the banking system from unscrupulous managers, protecting depositors and improving the governance of regulated institutions.

Article 3:

The appeal lodged by Mr Yao Barnabé YEBOUET is inadmissible on the merits and consequently, the aforementioned Decision of the WAEMU Banking Commission is confirmed in all its provisions".

It is this Decision, served on 22 July 2014 on Mr Yao Barnabé YEBOUET at the request of the Central Bank of West African States, known as BCEAO, which has been referred to the WAEMU Court of Justice for censure, in accordance with Article 15.

- 2nd of regulation no. 01/96/CM of 05 July 1996 laying down the rules of procedure of the WAEMU Court of Justice.

After exchanges of written pleadings between the applicant and the defendant, who produced an application and a statement of defence, supplemented by a reply from the applicant and a rejoinder from the defendant, the President of the Court, by order no. 018/2016/CJ/ of 22 September 2016, declared the written proceedings closed. A second Presidential Order appointed Mr Salifou SAMPINBOGO, Judge-Rapporteur.

II- PLEAS AND ARGUMENTS OF THE PARTIES

A. THE APPLICANT

In form

Jurisdiction of the Court and admissibility of the application

Counsel for the applicant relies on the provisions of Articles 15 - 2^{ème} and 26, last paragraph of Regulation No 1/96 of 05/07/96 laying down the Rules of Procedure of the Court of Justice, to justify the jurisdiction of the Court, as well as the admissibility of his application which, according to him, was made in the form and within the time limits prescribed by law. He attached to his application a receipt for security issued by the Court Registrar.

At the back

In limine litis, he invokes the nullity of Decision No CM/UMOA/014/06/2014 of the WAMU Council of Ministers, which bears only the name and signature of its Chairman. It deduces that this Decision referred to the Court for censure is not a Decision, because the matter was not debated and deliberated by all the members of the Council of Ministers and for this reason alone must be declared null and void.

The applicant alleges that the decision taken lacked a legal basis. He maintains that the Banking Commission and the WAMU Council of Ministers violated banking regulations.

In acting as a judicial body, the Commission Bancaire refrained from making the slightest reference to the provisions of the regulations it intended to apply to the facts of the case. This failure to identify the texts it intended to apply indicates a lack of legal basis. The Council of Ministers, which had to ascertain whether the Commission Bancaire had applied the banking regulations correctly, did not in turn provide any legal basis for its decision.

Violation of the relevant provisions of Article 30 of the Appendix to the Convention and of Circular No. 001-2011/09/C of 04 January 2011, resulting in the absence of disciplinary proceedings against the applicant.

The applicant cites Article 30 of the Annex to the agreement governing the WAMU Banking Commission, which provides that "*no disciplinary sanction may be pronounced by the Banking Commission without the interested party, whether a natural person or a legal entity, having been heard or duly summoned or invited to present his observations in writing to the Banking Commission...*". He also invokes the provisions of Circular No 001-2011/CB/C of 04 January 2011, issued pursuant to Article 30 cited above and which relates to "*... the procedure for hearing managers, directors and shareholder representatives of credit institutions and decentralised financial systems in the WAMU*" to incriminate the Commission Bancaire which sanctioned the applicant, even though no disciplinary proceedings had been initiated against him. He maintained that the Commission Bancaire had not taken a decision to summon him as a respondent in disciplinary proceedings against him, nor had it issued him with a regular summons to appear. He was therefore not the subject of a disciplinary procedure as provided for in the aforementioned texts.

Violation of the relevant provisions of article 66 of Order no. 2009-385 of 1 December 2009 and of article 28 of the appendix to the agreement governing the Commission Bancaire.

The claimant cites the provisions of Article 66 of Order 2009-385 of 01/12/2009, which refers to Article 28 of the Annex to the Agreement governing the Commission Bancaire, which sets out the various disciplinary sanctions. For the claimant, the legal question at the heart of this debate is whether Article 28 is intended to apply to Bank managers who are no longer in office.

The sanctions of the 5^{ème} order, i.e. suspension and compulsory resignation, are intended to punish the directors, but also the credit institution that they manage, and cannot be considered without the intention of punishing the institution.

This is why the Commission Bancaire can only order the suspension and compulsory resignation of a bank manager on the sole and exclusive condition that he is still working for the bank. Mr Yao Barnabé YEBOUET was not, at the time the Banking Commission took its decision, subject to the supervision of credit institutions and decentralised financial systems, because he was no longer a director of the bank concerned.

Mr Yao Barnabé YEBOUET was appointed Acting Deputy Managing Director of BFA on 06 May 2011 and his duties were terminated on 19 November 2013. That is why the applicant is asking the Court to rule that the Banking Commission could not validly sanction Mr Yao Barnabé YEBOUET, who had already lost his position as bank manager at the time of the decision.

In the applicant's view, the Commission exceeded its powers in reaching its decision because Article 28 sets out an exhaustive and restrictive list of disciplinary sanctions. However, the sanction at issue is "*prohibition from exercising administrative, management or executive functions in a credit institution ... or in a decentralised financial system in the WAMU ...*". This sanction does not exist anywhere in banking regulations, which did not intend to give the Banking Commission the power to impose such a sanction on bank managers. He concluded by stating the principle that "*there can be no sanctions without a text, and to admit the contrary would be to leave room for arbitrariness*".

Finally, the applicant criticises the specious reasoning of the Commission Bancaire, which detracts from its decision. He reviews the reasons given by the Commission Bancaire and the Council of Ministers, which confirmed the Commission's decision.

On the termination of the duties of Mr Yao Barnabé YEBOUET.

The applicant is outraged that the Commission Bancaire should take note of this cessation of duties and give reasons for its decision on the basis of irregular acts that it attributes to him, even though the person responsible for the measure, in this case the Ivorian Minister for the Economy and Finance, did not give any reasons for his decision.

On the Bank's structurally loss-making operations.

The Commission Bancaire's audit report highlighted "*structural operating losses since the start of operations in July 2004, as well as significant accumulated losses that have eroded shareholders' equity and led to widespread non-compliance with prudential standards*". The applicant wonders how it can be that the Bank's difficulties at the start of its operations in 2004 can be attributed even in part to him, when it is known that he was appointed to the post of Acting Managing Director on 06 May 2011?

On the governance of the bank and the payment of commissions by the bank's executives.

The applicant concludes on this point by stating that the State of Côte d'Ivoire is in constant breach of the relevant provisions of the regulations governing commercial companies, in particular Article 477 of the Uniform Act on Commercial Companies, under which the representative of a legal entity may not act as Chairman of the Board. Lastly, he noted that no commission had been paid by the bank's directors without the knowledge of the Board of Directors.

B. PLEAS IN LAW AND ARGUMENTS OF THE DEFENDANT

In form

Jurisdiction of the court.

In limine litis, the defendant submits that the Court of First Instance lacks jurisdiction on two grounds: first, that it is based on the provisions of Articles 14 and 15 of Regulation 01/968CM on the Rules of Procedure of the Court of Justice of the West African Economic and Monetary Union (WAEMU) and, second, on the provisions of Article 3 of the Treaty of the West African Monetary Union (WAEMU).

Articles 14 and 15 of Regulation 01/96/CM define the areas of jurisdiction of the Court of Justice, and nothing in those articles gives the Court jurisdiction to hear appeals against decisions of a WAMU organ, in this case the Council of Ministers. However, it is indisputable that the WAMU Council of Ministers acted, in this case, within the framework of the WAMU Treaty, which gives it the power to hear appeals against decisions of the WAMU Banking Commission, which is an organ of WAMU.

The defendant continues its argument that the Court lacks jurisdiction by invoking the Annex to the Convention governing the Commission Bancaire. According to the defendant, the decision referred to the Court of Justice was taken by the Council of Ministers of the WAMU, within the framework of the prerogatives granted to it by the Annex to the Convention governing the WAMU Banking Commission, which Annex does not give jurisdiction to the Court of Justice of the WAMU to hear appeals against decisions of the Council of Ministers rendered on appeal against decisions of the Banking Commission.

Finally, the defendant relies on the WAEMU Treaty of 20 January 2007 to argue that the Court lacks jurisdiction. It points out that, in addition to Regulation No 01/96/CM on the rules of procedure of the WAEMU Court of Justice, Article 3 of the Treaty of 20 January 2007 provides that: "*the WAEMU Court of Justice shall have jurisdiction to*

to deal with the failure of Member States to fulfil their obligations under the WAMU Treaty". It concludes that as the present action does not relate to a Member State's failure to fulfil its obligations, the Court of Justice does not have jurisdiction.

At the back

On the nullity of the Decision of the WAMU Council of Ministers.

Mr YEBOUET raises, in limine litis, the nullity of the Decision of the WAMU Council of Ministers on the grounds that the said Decision bears only the name and signature of the Chairman of the Council of Ministers. However, it does not indicate which legal provisions the said decision violates in form. In the defendant's view, there is no provision requiring the Council of Ministers to list in its decision the names of the persons who took part in its deliberations.

On the lack of a legal basis for the decision of the WAMU Council of Ministers.

Mr Yebouet maintained that he had been disciplined even though no disciplinary proceedings had been initiated against him, as he had received neither a summons nor a summons to appear.

The defendant refers to the provisions of Article 1^{er} of Decision No 001- 2011/CB/D of 04 January 2011 of the WAMU Banking Commission delegating powers to the Chairman to "*summon to a simple hearing or to a hearing in the context of a disciplinary procedure the managers, directors and representatives of shareholders of a credit institution or of shareholders, members or members of a decentralised financial system*".

This delegation of powers was sub-delegated to the Secretary General of the WAMU Banking Commission, in Article 1^{er} of Decision No. 003-2011/CB/D of 04 January 2011 of the Supervisory Authority to "*convene, in case of particular need, the managers and/or representatives of shareholders of credit institutions or decentralised financial systems for a simple hearing or in the context of disciplinary proceedings at a meeting of the Banking Commission*". It is within this framework that the Secretary General regularly communicated to the directors of the BFA, the conclusions of the inspection mission and the grievances raised against Mr YEBOUET, recalled in the summons to appear. In accordance with the provisions of Article 30 of the Annex to the Agreement of 06 April 2007, Mr YEBOUET appeared before the former and current directors of the BFA to present his defence before the WAMU Banking Commission on 13 December 2013.

The defendant refutes the applicant's claim that he was never summoned to appear before the Banking Commission. His presence at this hearing, where he was personally assisted by his lawyer, Maître Sylvain KOFFI KONAN, proves that he did indeed comply with a summons from the WAMU Banking Commission.

On the alleged infringement of the provisions of Article 66 of Order No 2009-385 of 1 December 2009 and the provisions of Article 28 of the Annex to the Agreement governing the Commission Bancaire.

Mr YEBOUET maintains that having lost his position as manager of Banque pour le Financement de l'Agriculture (BFA) on 19 November 2013, it was no longer possible for the Commission Bancaire to initiate or conduct any disciplinary proceedings against him.

The defendant relies on the provisions of paragraph 3 of Article 26 of the Ordinance on Banking Regulations, which provides that: "*the same prohibitions apply to bankrupts who have not been rehabilitated, to ministerial officers who have been dismissed and to managers who have been suspended or dismissed pursuant to Article 66*".

The prohibitions referred to in this paragraph are listed in paragraph 1 of article 26 of the French Banking Regulations, which include a ban on directing, administering or managing a credit institution or one of its branches, or on carrying on any of the activities defined in article 2 of the said Order. In accordance with the provisions of article 26, these prohibitions apply automatically whenever an executive or director is suspended or compulsorily retired.

The defendant points out that the measure banning Mr Yebouet from exercising his profession is not, strictly speaking, a disciplinary sanction, which is provided for in article 28 of the appendix to the agreement of 06 April 2007 governing the Commission Bancaire.

III- DISCUSSION

A- IN FORM

Jurisdiction of the Court.

Considering that the Treaty of the West African Monetary Union (WAMU), amended on 20 January 2007, provides in Article 2, paragraph 2 that: "*The Treaty of the West African Monetary Union (WAMU) is supplemented by the Treaty of the West African Economic and Monetary Union (WAEMU)*";

It follows that since 20 January 2007, the two treaties governing WAMU and WAEMU have constituted a single body of rules and that the Court of Justice remains a supervisory body common to WAMU and WAEMU;

Considering that Article 8, paragraph 2 of Additional Protocol No. 1 relating to the Control Organs of the WAEMU gives jurisdiction to the Court of Justice to hear appeals on grounds of legality or annulment: "to any natural or legal person, against any act of an Organ of the Union adversely affecting it"; that consequently the Court of Justice has jurisdiction to hear the action for annulment brought against Decision No. CM/UMOA/014/06/2004 of 28 June 2014 of the Council of Ministers of the WAEMU.

Admissibility of the application.

Considering that the Applicant lodged an initial application on 03/09/2014 which he subsequently regularised on 17/11/2014 and requests the Court to declare his appeal admissible for having been initiated in accordance with the forms and time limits prescribed by Articles 15, 2 and 26 of Regulation No 01/96/CM on the Rules of Procedure of the WAEMU Court of Justice;

A receipt for the security deposit from the registry is also attached to the file;

On analysis, the application must be declared admissible.

B- BASICS

Nullity of the decision of the WAMU Council of Ministers.

Considering that article 38, paragraph 1 of the Annex to the Convention governing the Commission Bancaire de l'UMOA provides that "*the decisions of the Commission Bancaire may be appealed only before the Council of Ministers of the UMOA...*";

After examining Decision N°CM/UMOA/019/12/2014 adopting the rules for referring cases to the WAMU Council of Ministers and for examining appeals against decisions of the WAMU Banking Commission, nowhere is there any indication as to the form and particulars that the decision of the Council of Ministers must take;

That the claimant who raised the issue was unable to provide the legislation infringed ;

In the absence of legal provisions prescribing the particulars to be included in the decision of the Council of Ministers, the omission of which would render the decision null and void, it follows that this plea cannot succeed;

The lack of a legal basis for the decision of the WAMU Council of Ministers.

Considering that Mr YEBOUET maintains that he was disciplined even though no disciplinary proceedings had been initiated against him, having received neither a summons nor a summons to appear;

It appears from the documents in the proceedings that the Secretary General of the Banking Commission, having received a sub-delegation of powers from the Chairman of the said Commission, by Decision No 003-2011/CB/D of 04/01/2011 communicated by letters CB/N° 002224/2013 of 13 November 2013 and CB/N°0022260/2013 of 27 November 2013 to the directors of the BFA, the conclusions of the inspection mission and the grievances raised against Mr YEBOUET, recalled in the summons to appear;

In response to this summons, Mr Yebouet appeared before the UMOA Banking Commission on 13 December 2013, along with the former and current directors of the BFA, to present his defence, in accordance with the provisions of article 30 of the appendix to the agreement of 06 April 2007;

Considering that Decision No. 765/CB/C of 13 December 2013 in question shows that, among the grievances of which Mr YEBOUET is accused, he acknowledges in particular the reality of direct debits and payments made to unauthorised staff, but disputes the total amount as identified by the Banking Commission's mission;

That his presence at this hearing, where he was personally assisted by his lawyer, Maître Sylvain KOFFI KONAN, proves that he complied with a summons from the WAMU Banking Commission;

It is therefore incorrect for the applicant to maintain that he was never summoned to appear before the Banking Commission;

That, consequently, the conduct he has adopted removes the defect in the summons that he is trying in vain to prove;

It follows that this plea must be rejected.

Infringement of the provisions of article 66 of order no. 2009-385 of 1^{er} December 2009 and of the provisions of article 28 of the appendix to the agreement governing the Commission Bancaire.

Considering that, in order to answer the question as to whether Article 28 is intended to apply to bank managers who are no longer in office, it is necessary to read it in conjunction with the provisions of paragraph 3 of Article 26 of the same Banking Regulation Order, which provides that "*the same prohibitions*

apply to bankrupts who have not been rehabilitated, to ministerial officers who have been dismissed and to directors who have been suspended or dismissed pursuant to Article 66;

The prohibitions referred to in this paragraph are listed in paragraph 1 of article 26 of the Banking Regulations;

That these prohibitions include a ban on directing, administering or managing a credit institution or one of its branches, or on engaging in the activities defined in Article 2 of the said Order;

Considering that the prohibition from practising is not, strictly speaking, a disciplinary sanction, which is provided for in article 28 of the Annex to the agreement governing the Commission Bancaire ;

That Mr YEBOUET was dismissed by order no. 763/MPMEF/Cab of 19 November 2013 of the Ivorian Minister in charge of the economy and finance, from his duties as manager of the BFA and the cessation of his duties as manager does not automatically entail exemption from liability for management faults committed previously;

Considering that by noting the termination of Mr Yebouet's term of office, the Commission Bancaire is not imposing a penalty on him, this being inherent in the removal from office;

That the Commission Bancaire seeks rather to protect depositors, improve the governance of credit institutions and the smooth functioning of the banking system, set out as cardinal principles of effective banking supervision by the convention of 06 August 2007 governing the WAMU Banking Commission and the circulars issued to that effect;

Considering that to do this, the Commission Bancaire applied the provisions of paragraph 3 of article 26 of the aforementioned Order to the applicant, drawing the consequences of his removal from office in the light of the aforementioned provisions;

As the revocation in question is not a measure of the Commission Bancaire, it follows that the plea alleging the lack of legality of the said decision must be rejected.

IV- ON EXPENSES

Considering that under the terms of Article 60, paragraph 2 of the Rules of Procedure, any unsuccessful party shall be ordered to pay the costs;

Mr YEBOUET Yao Barnabé having been unsuccessful, he should be ordered to pay the costs.

FOR THESE REASONS :

Ruling publicly and adversely, at first and last instance, in matters of Community law ;

IN THE FORM :

- **Declares itself competent,**
- **Declares Mr Yao Barnabé YEBOUET's action admissible;**

IN THE BACKGROUND :

- **Dismisses Mr Yao Barnabé YEBOUET's claims as unfounded;**
- **Orders Mr Yao Barnabé Yebouet to pay the costs.**

Thus made, judged and pronounced in public hearing in Ouagadougou on the day, month and year above.

And have signed :

The

PresidentThe Registrar

Joséphine Suzanne EBAH TOURE

Hamidou YAMEOGO