

N° 02  
14 July 1997

**UEMOA COURT OF JUSTICE - OUAGADOUGOU**  
**(BURKINA FASO)**

**ORDER**

**EXTRACT FROM THE MINUTES OF**  
**THE REGISTRY OF THE COURT**  
**OF JUSTICE**

In the year one thousand nine hundred and ninety-seven, And on Monday the fourteenth of July,

**MR SACKO Adourahamane**

President of the Court of Justice of the European Union West African Economic and Monetary Court (Me. Antoinette OUEDRAOGO), sitting in chambers at the seat of the said Court,

C/

After hearing the opinion of the First Advocate General, Mr Arégba POLO,

**UEMOA COMMISSION**  
(Mr Alioune SENHOR)

Assisted by Mr OUATTARA Peyomon Raphaël, Registrar of the Court of Appeal,

Made the following order:

**BETWEEN**

Mr SACKO Abdourahamane, former trainee officer of the WAEMU Commission, with an address for service at the Chambers of Me. Antoinette OUEDRAOGO, Avocat auprès des juridictions nationales du Burkina Faso, 01 BP. 2732 Ouagadougou ;

on the one hand ;

**AND**

The WAEMU Commission, located at Avenue Agostino Néto, Ouagadougou, with the President of the said Commission as its legal representative;

Assisted in the proceedings by Mr Alioune SENHOR, Legal Adviser, designated Agent by letter of 1<sup>er</sup> July 1997 from Mr Laouali BARAOU, Commissioner responsible for acting for the President of the Commission, registered at the Registry of the Court of Justice on 2 July 1997 under No 02 of the other part;

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We, Yves Donatien YEHOUESSI, President of the Court of Justice of the West African Economic and Monetary Union,

HAVING REGARD TO the Treaty of 10 January 1994 creating the West African Economic and Monetary Union (WAEMU);

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

**2.**

HAVING REGARD TO Additional Act No. 1/95 of 27 January 1995 appointing the members of the Court of Justice;

HAVING REGARD TO Minutes No. 01 of 27 January 1995 concerning the election of the President of the Court of Justice and the allocation of the duties of Judges and Advocates General;

HAVING REGARD TO Additional Act n° 10/96 of 10 May 1996 on the Statutes of the WAEMU Court of Justice;

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

HAVING REGARD TO Regulation No. 1/95/CM of 1<sup>er</sup> August 1995 on the Staff Regulations of Officials of the WAEMU;

HAVING REGARD TO Mr SACKO Abdourahamane's application, registered at the Registry on 7 May 1997 under No 04 ;

Having regard to the defendant's statement of case filed at the Registry on 10 July 1997 under No 04 ;

The Advocate General has been heard.

Whereas by application dated 25 April 1997, registered at the Court Registry under no. 004/97, Mr SACKO Abdourahamane, represented by Maître Antoinette OUEDRAOGO, Avocat à la Cour in Ouagadougou, brought an action before the Court of Justice for a stay of execution of a decision of the WAEMU Commission; It is stated that Mr SACKO Abdourahamane, who is seeking the annulment of decision no. 97-048/SP/PC of 27 February 1997 by which the President of the WAEMU Commission terminated his functions, is a member of the Commission of the WAEMU,

also applies for a stay of execution of the said decision; he bases his application for a stay, first, on the seriousness of the grounds for annulment of the aforementioned decision, second, on the very difficult-to-reparable damage which execution of the decision appealed against would cause him and, finally, on the provisions of Article 44 of the Statutes of the Court of Justice.

Whereas under the terms of Article 72(1) of the Rules of Procedure of the Court of Justice "Any application for suspension of operation of an act of an institution shall be admissible only if the applicant has challenged that act in an action before the Court".

Considering that decision n° 97-048/SP/PC of 27 February 1997 terminating the functions of Mr SACKO Abdourahamane, the execution of which is requested to be suspended, is the subject of an action for annulment before the Court dated 25 April 1997 and entered in the Register of Requests under n° 003/97;

That the condition of admissibility prescribed by the aforementioned Article 72 has been met; that the application for a stay of execution is therefore admissible in form.

### **ON RESOURCES**

Considering that it is settled doctrine and case law that the granting of a stay of execution is subject to the fulfilment of two conditions

#### **3.**

The first is that enforcement of the contested decision is likely to entail consequences that are difficult to repair. The second is that the pleas in law set out in the application appear, in the light of the investigation of the case, to be serious and of such a nature as to justify annulment of the contested decision.

Considering that, as the main proceedings stand, the seriousness of the grounds that could justify annulment of the contested decision cannot yet be assessed objectively; that, moreover, implementation of the said decision is not such as to entail consequences that would be difficult to repair in the light of the applicant's claims and the grounds put forward in support of them.

Considering that the decision to dismiss Mr SACKO Abdourahamane has already been implemented and has therefore produced its full effect;

That, in any event, the granting of a suspended sentence is a matter for the Judge's sovereign discretion, depending on the case, even if the conditions are met;

That in the present case there is no reason to grant the request;

**For these reasons**

**order that :**

- 1) Mr SACKO Abdourahamane's application is admissible in form;
- 2) there are no grounds for granting a stay of execution of dismissal decision no. 97-048/SP/PC of 27 February 1997.

This order has been signed by us and the Registrar.

Then follow the illegible signatures

For a true copy of the original delivered for the first time to Me. Antoinette OUEDRAOGO

Ouagadougou, 17 July 1997

**The Registrar**