

A new court case might hold Mali responsible for the mercenaries it invited in

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International law has no clear answer when a government contracts a private military company, embeds it in its own operations, and atrocities follow. A case now before Africa's regional human rights court asks whether the African Charter on Human and Peoples' Rights can provide one, writes Bhavya Johari.

[Between 27 and 31 March 2022](#), Malian government forces and fighters from the Wagner Group, a Russian private military company [operating at the invitation of the Malian government](#), conducted a five-day military operation in the central Malian town of Moura. A [report by the Office of the United Nations High Commissioner for Human Rights](#) (OHCHR), drawing on interviews with survivors and witnesses, found reasonable grounds to believe that over 500 people were killed, the vast majority summarily executed. At least 58 women and girls were raped or subjected to other sexual violence, and detainees were tortured. When investigators sought access to the site, Malian authorities refused, and when the findings were published in May 2023, the junta [opened an espionage prosecution](#) against those who produced the report.

In the years since, there has been no domestic prosecution. The sequencing of the junta's exits from international forums tells its own story. On 30 June 2023, the Security Council [terminated the mandate of the United Nations Multidimensional Integrated Stabilisation Mission in Mali](#) (a peacekeeping force that had monitored human rights and protected civilians in the country since 2013), after a demand from the junta. Mali's [departure from the International Criminal Court](#) was announced alongside Alliance of Sahel States partners on 22 September 2025.

Each departure was framed as an assertion of sovereignty against external interference. Yet across the same period, the junta was contracting, embedding, and militarily integrating a foreign private company whose accountability to any Malian institution was precisely zero. Sovereignty invoked against accountability mechanisms and sovereignty surrendered to an unaccountable private armed force are not two exercises of the same principle. They are its contradiction. It is that contradiction which TRIAL International, the Pan African

Lawyers Union, and the International Federation for Human Rights [placed before the African Court on Human and Peoples' Rights](#) on 20 April 2026.

Why the standard legal test falls short

International law generally holds a state responsible for the conduct of a foreign armed group only where the state effectively directed or controlled those specific operations. Designed for a world of state-sponsored insurgencies, it is poorly suited to commercial military companies built partly to frustrate this kind of analysis. Wagner, now operating as Africa Corps, deliberately maintains opaque command structures. Russia has characterised its personnel in Mali as [military instructors rather than operational participants](#), and the contractual terms between the Malian junta and the company remain undisclosed. The evidentiary standard intended to prevent false attribution has become a structural incentive for private forces precisely because it is so difficult to meet.

Mali's accountability does not turn on whether it ordered the Moura killings. It turns on what Mali did, and failed to do, as the sovereign authority responsible for what happens on its own territory: whether it took steps to prevent harm from forces it deliberately contracted, investigated the killings once they were documented, prosecuted those responsible, and provided any remedy to survivors. Each of those obligations flows from Mali's own choices, independently of what any private company did or who directed it. The case accordingly asks the court to redirect attention from the chain of command within the contracted force to the chain of decisions within the contracting state.

What the African Charter exposes

The [African Charter on Human and Peoples' Rights](#) provides a legal path that the ICJ's effective-control standard does not. Article 1 requires states to actively give effect to every right the Charter protects. This requires governments to protect people not only through appropriate legislation and effective enforcement but also by protecting them from damaging acts that private parties may perpetrate. The African Commission on Human and Peoples' Rights established that duty in [Social and Economic Rights Action Center \(SERAC\) and Center for Economic and Social Rights \(CESR\) v Nigeria](#). The government's failure to regulate the oil companies operating in Ogoniland breached the Charter and the Commission called on Nigeria to investigate the abuses, prosecute those responsible and compensate the victims. Those were recommendations rather than binding orders, however, and [more than two decades later, they remained substantially unimplemented](#).

What the Charter grasps, and what the effective-control test misses, is that a state's capacity to determine who operates within its territory is the same capacity from which the duty to ensure those actors do not commit atrocities arises. Inviting a foreign armed force to conduct joint operations is itself an exercise of sovereign authority. The legal consequences of that choice cannot then be attributed exclusively to the party the state

invited in. Sovereignty and the duty to protect do not pull in opposite directions. They come from the same source.

That shared origin gives the case its sharpest irony. By methodically closing every available accountability mechanism, the junta overlooked its [standing consent declaration](#) under the [Court's founding Protocol](#), which permits organisations and individuals to file cases directly before the Court. Having invoked sovereignty to close door after door, Mali finds itself before the one court its sovereignty inadvertently left open. It cannot now claim sovereign prerogative to resist a mechanism it forgot to revoke. The same principle that justified every exit from accountability offers no escape from the forum it left behind.

A judgment on the merits is likely years away. The [Ogiek claim against Kenya](#), the Court's most prominent recent case, was referred to it in 2012 and decided on the merits only in 2017. If the Court finds a violation, however, it may order reparation to the victims. And because this is the [first case](#) in which the Court has been asked to hold a state responsible for hosting and contracting a private military force, its ruling would set the terms on which African states answer for the forces they invite onto their soil.

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