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The Constitutional Court Tuesday on 12th October, 2021 heard grounds by the State to discharge a review by Dutch Wim Akster.

The State wants the Dutch national's case of sodomy and sex trafficking to go back to the Senior Magistrates Court as criminal.

Initially, Akster asked for the constitutional review after his case was dismissed on grounds he felt it invaded privacy and dignity.

A panel of three judges led by Judge Joseph Chigona adjourned the case to 16th of November, 2021 after some issues of law arose during proceedings.

On 28th May, Magistrate Tsoka Banda discharged the case arguing that it was unreasonable for the State to take more than two years to commence trial.

After the discharge, the State refiled the case but with a different court.

The State also applied to the court that the case be discharged back to the Senior Magistrate Court as a criminal trial.

Akster was arrested in April 2020 for allegedly sexually molesting six boys and trafficking three girls who at the time were beneficiaries of the bursary initiative under Timotheos Foundation.

Civil Society Organisation led by Eye of the Child claimed they have information of witness tampering.



Acting Director for Eye of the Child, Memory Chisenga said: "They asked for more time to look at the arguments from the defence especially the law about representation of the State.

"We pray the judgment is free and fair," she said

Chisenga bemoaned the delay in justice delivery saying they are worried with the pace the case has taken.

"We are appealing to the judges to deliver the judgement."

Counsel for Akster said he could not comment as he had no instructions.

After the court proceedings, Akster bolted inside the courtroom to avoid journalists which camped outside.



*Lawyer snoops through the window to clear way for Akster*

Close to an hour and his team, lawyer and Akster himself kept snooping through courtroom window to see if it was clear to come out.

The cat and mouse between Akster and he media ended when he used the backdoor from the courtroom to his car to clear off the premises.



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## CSOs call for Wim Akster's deportation

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A consortium of civil society organisations working on the frontline of responding to Human trafficking cases has called for the deportation of Wim Akster over allegations of sodomy and his recent charge of illegal gun possession.

Led by Eye of the Child, the consortium will this month and in December embark on a number of advocacy activities intended to engage authorities to make sure Akster's Non-Governmental Organisation 'Lukas Malawi' is deregistered or suspended because it gives the suspect a platform to interact with children.

Memory Chisenga acting executive director for Eye of the Child said they are also pushing for the cases be tried with speed.

On Tuesday 16th November 2021, the Constitutional court will give its preliminary ruling on the sodomy case.

Kulinji.com is reliably informed, Akster was arrested again and appeared before the Lilongwe Magistrate Court on 5th November, 2021 to answer charges of being found in possession of guns without permit/illegally which is contrary to section 12(10 as read with section 12(2) of the firearms Act.

Chisenga said: "Looking at the cases Akster is answering and how long these cases have taken and how the suspect is operating, we believe the best way is deportation.



Chisenga addressing the media pictures courtesy of Abel Ikiloni, Mana

"He is a threat to our security, he is a free person. We have allowed him to operate through his Lucas Malawi, yet he has these cases of sodomy and being found with a gun. The cases he is answering can be taken to his country. It's called expedition. Malawi can do that.

"He should be answering these cases while we have already deported him. We should not allow him to be in Malawi and be interacting with children. He still feels he has the power. He boasts of political connections, we do not know the connections but they are not above the law."

In a space of one year the suspect has been arrested three times for three different crimes.

### Background

Akster was arrested in April 2020 for allegedly sexually molesting six students and three guards.

He was charged with nine counts of sexual abuse and sex against the order of nature.

While waiting for his case, he was re- arrested on September 20th, 2020 for a different case relating to sex trafficking of secondary school girls and was charged with sexual abuse of a 19-year-old schoolgirl and human trafficking.

But Akster was discharged by Dalton Court Magistrate Soka Banda early this year.

Magistrate Banda cited delays by the state to prosecute the case, calling it inordinate which in his view necessitated the discharge since he was arrested in 2018.

He added that the law requires that suspects should be tried within reasonable time and that two years was beyond reasonable time hence the discharge.

Akster has maintained that he is innocent and that the cases are a vendetta against him.

The ruling raised eyebrows among child rights organisations that were monitoring the case.

This prompted state lawyer Victor Jere to apply to the High Court for review of Magistrate Soka Banda's ruling, and on 22nd October 2021 Justice John Chirwa of the igh court overturned the ruling.

The lower court erred by using wrong information to discharge the suspect. The case was reinstated and the suspect will be on trial very soon.

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Pemphero Musowa

Pemphero Musowa is a reporter for Kulinji.com. He is an award-winning journalist as well as celebrated music and sports writer with vast experience in online news reporting.



## Child rights advocates plead with DPP - The Times Group Malawi



CONCERNED—Chisenga (second right) and other rights advocates

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Esmie Tembenu

Child rights advocates have asked the Ministry of Justice to expedite the prosecution of Wim Akster,a Dutch national who is answering two criminal cases in relation to the trafficking of three girls and another one of sexually molesting six learners and three men.

Eye of the Child Advocacy Officer Memory Chisenga said delays that had marred the case were worrying, especially because Malawi Police Service officials had finalised investigations and committed the case to court in November last year.

“We are further aware that his lawyer raised preliminary objection, in the case involving the nine boys, that challenges constitutionality of the sections under which he was charged and that a Chief Resident Magistrate sustained the said preliminary objection and referred the matter to the Chief Justice for certification,” she said.

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Office of the Ombudsman launched its own inquiry into the case after receiving reports that the case file had gone missing at the court. The file has been found.

“We are deeply concerned that, as we stand, both cases have stalled. The delay is traumatising to alleged victims. We are also mindful that the right of an accused to a speedy trial is fundamental and should be effectuated and protected by set specific limits on the time within which the defendant must be brought to trial,” she said.

Meanwhile, Family Rights Elderly and Child Protection Executive Director Esmie Tembenu has urged the Director of Public Prosecutions to intervene in the matter.

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Tembenu said there must be a clear timeframe for trial of both cases from commencement to disposition.

Akster, a former employee of Timotheos Foundation, was arrested in April 2020 on allegations of sexually molesting six students who were at the time beneficiaries of Timotheos scholarships and bursaries and three men.

## Dutch national faces nine charges of sexual abuse - The Nation Online

A Dutch national Jan Willem Akstar on Thursday appeared before the Blantyre Magistrate's Court in a case in which he faces nine charges of sexual abuse and sodomy.

He is accused of molesting students and employees at Timotheos Foundation.



Akstar, 49, who was working as financial manager at the orphanage based in Mapanga, Blantyre, is alleged to have committed the crimes early this year.

Timotheos Foundation offers a bursary scheme by paying school fees for needy students. Akstar is alleged to have been taking advantage of this scheme to force himself on beneficiaries.

Lawyer representing the prosecution, Victor Jere, said there are nine alleged victims expected to present their evidence, adding that six are students, including one from a public university while three are employees at the orphanage.

He said in an interview outside the court that on the first day of hearing on Thursday, defence lawyer Fostino Yankho Maele applied to the court to discharge the case, arguing that only a maximum of six people should be allowed as per requirement.

Jere also said the defence argued that the charges were based on Section 153 of the Penal Code which is unconstitutional because it amounts to a violation of Akstar's privacy, dignity and non-discrimination based on sex.

However, Jere said the prosecution countered that the argument adopted by Akstar's defence—that discussing his client's sexual activities is violation of privacy—is a common tactic by sexual offenders involved in homosexual relationships.

"In a nutshell, the defence is saying we cannot discuss Akstar's sexual offences committed against the students because he was in a homosexual relationship with the victims. But this is wrong in interpretation of the case at hand. The case at hand is not about two consenting male adults in a homosexual relationship. It is not about same sex relationships. It is not.

"We have told the court that the case brought before it is a case of one perpetrator forcing himself on unsuspecting and vulnerable victims against their will," he said.

The court is expected to make its preliminary ruling on the objections in the next two weeks before Akstar takes plea and witnesses are called to present their testimonies before the court.