



**IN THE COMMUNITY COURT OF JUSTICE OF THE ECONOMIC  
COMMUNITY OF WEST AFRICAN STATES - (ECOWAS)**

**HOLDEN IN ABUJA, NIGERIA**

**ON TUESDAY, THE 10TH DAY OF DECEMBER, 2019**

**BETWEEN**

**REGISTERED TRUSTEES OF GAN ALLAH FULANI DEVELOPMENT ASSOCIATION  
OF NIGERIA**

**Applicant**

**VERSUS**

- 1. THE FEDERAL REPUBLIC OF NIGERIA**
- 2. TARABA STATE GOVERNMENT**

**Respondents**

**Enrolled on the Cause list as Suit N°ECW/CCJ/APP/30/17**

**THE PANEL:**

**HON. JUSTICE GBERI-BE OUATTARA**

**PRESIDING /JUDGE RAPPORTEUR**

**HON. JUSTICE DUPE ATOKI**

**MEMBER**

**HON. JUSTICE KEIKURA BANGURA**

**MEMBER**

**ASSISTED BY BARRISTER ABOUBAKAR DJIBO DIAKITE**

**REGISTRAR**

**Delivered the following judgement: N° ECW/CCJ/RUL/09/19**

## THE COURT

Mindful of the Revised Treaty of 24 July 1993 establishing the Economic Community of West African States - (ECOWAS);

Mindful of the protocol of 6 July 1991 and the Supplementary protocol of 19 January 2005 relating to the Community Court of Justice, ECOWAS;

Mindful of the Rules of Procedure of the Community Court of Justice, ECOWAS of 3rd June 2002;

Mindful of the Universal Declaration of Human Rights of 10 December 1948;

Mindful of the African Charter on Human and Peoples Rights of 27 June 1981;

Mindful of the International Covenant on Civil and Political Rights;

Mindful of the application of the Trustees of GAN ALLAH Fulani Development Association lodged in the Court's registry on 28th February 2018;

Mindful of the statement of defence of Taraba State lodged at the Court's registry on the 6th of March 2018;

Mindful of the statement of defence of the Federal Republic of Nigeria of 21st November 2018 received at the Court registry on 28 February 2018;

Having heard the parties through their respective counsels;

After deliberating in accordance with the law;

## FACTS OF THE CASE

1) By application lodged at the Court registry on 28th February 2019, the association called REGISTERED TRUSTEES OF GAN ALLAH FULANI DEVELOPMENT ASSOCIATION OF NIGERIA, a non-governmental organization averred through its Main Counsel Yusuf DANKOFA that, on the 17th and 23rd of June 2017, the populations of 19 Fulani communities living in the MAMBILLA Plateau, Sardauna Local Government Area, Taraba State, in the Federal Republic of Nigeria, were massacred and their property looted and destroyed by militias of the Mambilla ethnic group, in such a well-coordinated and organized manner, that it can be described as "genocide".

2) 732 people were killed or reported missing, 25 000 animals were killed, and property worth hundreds of millions was looted and destroyed in these massacres.

3) The Nigerian Government continues to neglect its obligation to protect and promote the human rights of the Fulani communities by failing to ensure their safety.

4) Following these attacks, the Taraba State Parliament drafted a bill entitled "the Taraba State Open Grazing Prohibition and Ranches Establishment Bill 2017" which aims to establish ranches and prohibit open rearing and grazing of livestock.

5) This association explains that, it is common knowledge that the most famous ethnic group in the world known as cattle breeders, is the Fulani. They are widely dispersed because it is part of their culture and way of life. Therefore, the creation of Ranches is a huge constraint to their lives which is characterized by animal husbandry and would make their lives difficult, thereby threatening their existence.

6) Passing this bill will violate the human rights of the Fulani.

The applicant therefore sought the following orders from the Community Court of Justice ECOWAS:

-A declaration and ruling that the failure of the Nigerian Government and Taraba State to fulfil their obligation to safeguard the lives and property of the Fulani Community, is a violation of their human rights.

-A declaration and ruling that the failure of the Nigerian Government to fulfil its obligation to rehabilitate the survivors of this carnage is a violation of their right to life, safety, health and dignity of the human person, as enshrined in the African Charter on Human and Peoples Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

-Declare the Nigerian Government and the Government of Taraba State responsible for the violations of rights, and order them to compensate the Fulani communities of the Mambilla Plateau by paying the sum of \$200,000,000 for the violation of their human rights and to grant them any other form of compensation that may take the form of restitution, satisfaction or guarantee of non-repetition, that the Court considers appropriate to grant.

7) In reply, Taraba State represented by Counsel Bar. John Okezie Esq submits that the action of the applicant is premature due to failure to exhaust local remedies, in accordance with Articles 50 and 56(5) of the African Charter on Human and People's rights. He raises a preliminary objection as to the jurisdiction of the Court in accordance with Articles 87 and 88 of the rules of procedure of the Court, article 9 of Supplementary Protocol A/SP.1.1/05 amending Protocol A/P1/7/91 relating to the Court.

8) In support of this action, he argues that, since it is not a signatory to the Economic Community of West African States (ECOWAS) Treaty, it is an inappropriate party in this proceeding, as it is not one of the persons recognised by Article 4 of the Supplementary Protocol (A/SP.1/01/05) amending the Protocol (A /P1/07/91) relating to the Community Court of Justice, ECOWAS, as those who may be sued before this Court. He therefore sought that the Court declares it lacks jurisdiction to hear this case against Taraba State

9) The respondent submitted a sworn affidavit.

10) The Federal Republic of Nigeria represented by the Attorney General of the Federation contends that contrary to the reliefs sought by the applicant, It and Taraba State have always respected the human rights of citizens and all ethnic groups, including that of the applicant and the members of its association.

11) They are doing everything they can to prevent the recurrence of the bloody crisis that has claimed many victims, destroyed many properties and put the peace, unity and progress of the nation at risk.

12) He denied each of the allegations contained in the application and explains that for 16 years, the Mambilla ethnic group and the Fulani breeders lived in acrimony without being able to find a solution to their land disputes until recently, the Governor of Taraba State setup a committee of inquiry to examine these problems causing trouble in the region in an effort to find lasting solutions. This decision by the Governor resulted in acts of violence that has claimed many human lives. The reason for this crisis was the arrest of Wakilin Mambilla of N'guroje of the Mambilla ethnic group, also known as Umar CID.

13) The Federal Republic of Nigeria submits that it immediately deployed troops to the crisis zone and that this act relatively swiftly brought calm. Thereafter, it ordered the National Emergency Management Agency to quickly

assess needs and provide relief materials to victims. As a result, at least 12 shipments of relief supplies were delivered to the affected areas and distributed to the Fulani.

14) He therefore considers that the sole evidence presented by the applicant is neither sufficient nor decisive to convince the Court of the veracity of the carnage allegedly committed against the Fulani communities in the Mambilla Plateau region.

15) He ask the Court to declare the applicant's action as unfounded.

16) The Federal Republic of Nigeria also raises a preliminary objection to the Court's lack of jurisdiction under article 9 of the Supplementary Protocol (A/SP.1/01/05) amending the Protocol (A/P1/07/91) relating to the Community Court of Justice, ECOWAS.

17) He submits that this article does not confer jurisdiction on the Court to hear the case, because it is based on an alleged commission of crimes, destruction of property and livestock, caused by a land dispute between the Fulani Communities of Mambilla and Mambilla ethnic group living on the territory of Taraba State in Nigeria.

18) Since the Court has no jurisdiction in criminal matters, the Nigerian courts are responsible for hearing the case under Article 6 of the Constitution of the Federal Republic of Nigeria.

19) He concludes that the application is inadmissible.

20) The GAN ALLAH Fulani Development Association reasserts that its action is based exclusively on the violation of human rights.

21) It maintains that the Court has jurisdiction to rule on this case because this Court has always held that, the mere allegation of a violation of human rights in the territory of a Member State is sufficient to justify its jurisdiction.

22) It therefore concludes that the respondents' objection as to the jurisdiction of the Court should be rejected.

23) The Court having heard the facts above distilled the following issues for determination to wit:

- 1) Whether the Community Court of Justice, ECOWAS has jurisdiction to hear this case
- 2) Whether the application lodged by the Association is admissible.
- 3) Whether the human rights of the applicant's members were violated.
- 4) Whether the claim for compensation is well founded.

### **ANALYSIS OF THE COURT**

#### **ON THE LACK OF JURISDICTION OF THE COURT**

24) In accordance with the provisions of Article 9(4) of Supplementary Protocol A/SP.1/01/05 amending Protocol A/P.1/7/91 relating to the Community Court of Justice, ECOWAS, the Court has jurisdiction over cases of human rights violations in all Member States;

25) In this case, the applicant alleges infringement of its members' fundamental rights under Article 9 of the Supplementary Protocol of 19 January 2005 and sought the Court to order the respondents to pay them the sum of two hundred million (200 000 000) dollars as compensation;

26) The Federal Republic of Nigeria argues that the facts that the issues alleged by the applicant constitute crimes and offences, and it is Nigerian Courts who have jurisdiction in criminal matters, that must be seized;

27) The Court recalls that fundamental rights are rights granted to each individual; they refer to all the essential subjective rights of the individual which are protected within the Rule of Law; among these rights are the right to life and the right to property whose violation is claimed in this case; destroying the property of others is tantamount to infringing their rights to property; likewise, committing a murder constitutes an infringement of the victim's right to life; the Court is therefore of the opinion that, by referring to murder and destruction of property, the applicant invokes the violation of Fundamental Human Rights;

28) In several cases including Mamadou Tandja V. Niger; El Hadji Tidjani Aboubacar V. BCEAO, the Court held that for the establishment of its jurisdiction on human rights matters, the reference to the facts in these cases is enough;

29) Consequently, the Court declares that it has jurisdiction to rule on these human rights violations, alleged against the Federal Republic of Nigeria, a Member State of the Economic Community of West African States (ECOWAS) and Taraba State, of which the applicant's members were alleged victims;

#### **ON THE ADMISSIBILITY OF THE APPLICATION**

30) Under article 10 paragraph d of Supplementary Protocol A/SP.1/01/05 of 19 January 2005, any person who is a victim of human rights violations may seize the Court;

31) The application submitted to this effect must not be anonymous or already brought before another competent international court;



32) In this case, the Taraba State considers that the request of the Association is premature for failing to exhaust local remedies in accordance with Articles 50 and 56 (6) of the African Charter on Human and Peoples' Rights;

33) It therefore raises an objection of inadmissibility based on the principle of exhaustion of local remedies;

34) As Article 10-d of Supplementary Protocol A/SP.1/01/05 of 19 January 2005 did not lay down any condition for the exhaustion of local remedies before the Court is seized on cases of human rights violations, the Community Court exempts itself from the obligation of applicants to exhaust local remedies before bringing matters before it;

35) In its established precedence, it has always stated that it can be seized without exhausting local remedies;

36) It affirmed this decision for the first time in the judgement of Professor Etim Moses Essien v. Republic of The Gambia and confirmed it in the suit of Hadidjatou Mani Koraou v. Republic of Niger;

37) The Court further recalls that when it receives an application for a human rights violation, it is necessarily brought by a person who is a victim of such violations against one or more Member States of the Community and not against individuals, natural or legal persons.

This is evidenced clearly by Judgement No. ECW/CCJ/APP/07/10 of 10 December 2010 in suit No. ECW/CCJ/RUL/08/09 SERAP v Nigeria and others and Judgement No. ECW/CCJ/RUL/03/10/10/ of 11 June 2010 in the suit of Peter David v Ambassador Raph Uwechue.

39) In the present case, in addition to the Federal Republic of Nigeria, the Association has directed its application against the State of Taraba, which is a Federal State forming part of the 36 States that constitutes the Federal Republic of Nigeria; since it is not a signatory to the Treaties and Protocols relating to the Community Court of Justice, the State of Taraba cannot be brought before this Court;

40) The Court holds that the case directed against the State of Taraba is inadmissible;

41) With regard to the action brought against the Federal Republic of Nigeria, since the application is not anonymous and since it has not been established that the applicant has brought an action before another international court competent in the field of human rights to hear the same dispute, the Court holds that the application is admissible;

### **FOR THESE REASONS**

The Court adjudicating in a public hearing, after hearing all parties on preliminary objection on the matter of human rights violation in the first and last resort;

### **IN A RULING;**

Declares that it has jurisdiction to entertain this suit;

Declares the application against the State of Taraba inadmissible;

Declares however, that the application against the Federal Republic of Nigeria is admissible;

Adjourns the case for hearing on the 4th of March 2020.

Sign by the following:

**HON. JUSTICE GBERI-BE OUATTARA                      PRESIDENT/JUDGE RAPPORTEUR**

**HON. JUSTICE DUPE ATOKI                                      MEMBER**

**HON. JUSTICE KEIKURA BANGURA                      MEMBER**

**ASSISTED BY BARRISTER ABOUBAKAR DJIBO DIAKITE    REGISTRAR**

