

COMMUNITY COURT OF JUSTICE,  
ECOWAS  
COUR DE JUSTICE DE LA COMMUNATE,  
CEDEAO  
TRIBUNAL DE JUSTICA DA COMUNIDADE,  
CEDEAO



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

In the Matter of

**MELVILLE ROBERTS**

(APPLICANT)

v

**REPUBLIC OF THE GAMBIA**

(RESPONDENT)

*App No. ECW/CCJ/APP/65/21; Judgment No. ECW/CCJ/JUD/43/24*

**JUDGMENT**

ABUJA

3 DECEMBER 2024

THE COMMUNITY COURT OF JUSTICE OF THE  
ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)  
HOLDEN AT ABUJA, NIGERIA

*App No. ECW/CCJ/APP/65/21; Judgment No. ECW/CCJ/JUD/43/24*

MEVILLE ROBERTS

-APPLICANT

AND

REPUBLIC OF THE GAMBIA

-RESPONDENT

**COMPOSITION OF THE COURT:**

Hon. Justice Ricardo C.M. GONÇALVES

-Presiding Judge

Hon. Justice Dupe ATOKI

- Member

Hon. Justice Edward Amoako ASANTE

- Judge Rapporteur

**ASSISTED BY:**

Dr. Yaouza OURO-SAMA

- Chief Registrar

**REPRESENTATION OF PARTIES:**

Femi Falana, Esq.

Marshal Abubakar, Esq

- Counsel for the APPLICANT

Binga Dinshiya, Esq

Rakey Duanda, Esq

- Counsel for the RESPONDENT



## I. JUDGMENT

1. This is a judgment of the Court read virtually in open court pursuant to Article 8(1) of the Practice Directions on Electronic Case Management and Virtual Court Sessions, 2020.

## II. DESCRIPTION OF THE PARTIES

2. Applicant, Mr Melville Roberts, is a Gambian lawyer and diplomat and a Community citizen.
3. Respondent, the Republic of The Gambia, is an ECOWAS Member State and a party to the African Charter on Human and Peoples' Rights 1981 (African Charter), the International Covenant on Civil and Political Rights 1966 (ICCPR) and the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR).

## III. INTRODUCTION

### *Subject Matter of the Proceedings*

4. The Application alleges that following accusations of rape made against the Applicant by women with whom he had previously been in romantic relationships, the Gambian police authorities launched a criminal investigation. State actors, including government ministers, allegedly smeared the Applicant with the rape allegations; and the Applicant was interdicted in the Gambian Foreign Service. The Applicant asserts that the actions of the Respondent's police and other officials violated his rights to presumption of innocence, fair trial, property, work, and freedom from mental torture.

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#### **IV. PROCEDURE BEFORE THE COURT**

5. Applicant commenced this proceeding by an Application dated 4 November 2021 which was filed at the Registry of the Court on 5 November 2021. The Application was served electronically on the Respondent on 8 November 2021.
6. On 16 February 2022, Applicant filed an application dated 11 February 2022 to amend his Initiating Application. The application for amendment was served on the Respondent the next day on 17 February 2022.
7. On 25 November 2022, the Applicant filed an application for default judgment which was electronically served on the Respondent on 26 November 2022.
8. On 8 April 2024, the Applicant repeated his application for default judgment which was served on the Respondent the same day.
9. At the session of the Court on 2 May 2024 at which both parties were represented, the Applicant was heard on his application to amend the Initiating Application. It was not opposed by the Respondent. The Court granted the application for amendment and adjourned the matter to a later date to be communicated to the parties.
10. At the session of the Court on 24 September 2024 at which only the Applicant was represented, the Court heard the Applicant's counsel on the application for default judgment and adjourned for deliberation and judgment.

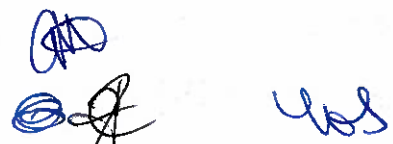
#### **V. CASE OF THE APPLICANT**

##### **A. Summary of Facts**

11. The Applicant, a lawyer, says that he started his career as a deputy Permanent Secretary and in-house Legal Adviser to the Respondent's Ministry of Foreign Affairs in 2017. According to the Applicant, sometime in 2019, his former

girlfriend who unsuccessfully tried to blackmail him to part with some money and mobile phones accused him on social media of raping her.

12. Shortly thereafter, three other women with whom he had had romantic relationships began a smear campaign by accusing the Applicant of raping them at various times in his house in 2011, 2016 and 2017, respectively.
13. This led to the launch of a social media hashtag *#SurvivingMelville* in The Gambia with which state and non-state actors subjected the Applicant to scathing condemnation and “trial” in the media. According to the Applicant, one of such state officials involved in the smear campaign against him was Mr Fatty Ahmed, who was then the Minister of the Interior and a Presidential Adviser. In a Facebook post, he accused the Applicant of attempting to rape his wife. He later edited the post and eventually deleted it after his wife called him out for lying and filed for divorce.
14. Applicant further states that as part of the coordinated efforts to damage his reputation, the Respondent caused to be published in the media that he had been suspended from his job, although this was not true. He requested the Respondent to issue a public statement to correct the false publication and restore his reputation, but his request was ignored without any justification. On 28 August 2019, the Respondent also published the purported cancellation of the Applicant’s diplomatic passport in *The Standard*, a newspaper in circulation in the Gambia.
15. Due to these turn of events, Applicant says that he had to take time off his PhD research at the University of Oxford, in the UK, and return to The Gambia to subject himself to investigation by the police and other relevant agencies to



clear his name. After an exhaustive investigation during which the Applicant was interrogated, it was established that there was no evidence for a *prima facie* case of rape against him. Applicant, therefore, says that no charges were brought against him.

16. Despite this, Applicant says that some jewellery which his mother gifted to him and which were seized by the police during the execution of a search warrant on his house have still not been returned to him.

17. Applicant contends that in blatant violation of Section 24(3)(a) of the Respondent's own Constitution, the Respondent has continued to subject him to public ridicule and suspension from work without any charge against him. Therefore, the Applicant asserts that the Respondent has violated his rights to fair hearing and presumption of innocence, the right to equal treatment, and the right to work.

### **B. Pleas in Law**

18. Applicant submits the following pleas in law:

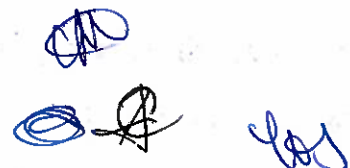
(a) That the smear campaign, condemnations and media trial to which he was subjected by state and non-state actors without being charged, prosecuted or sentenced by a court of law violated his rights to fair trial, dignity and freedom from torture or other degrading treatment.

(b) That his suspension from his job and refusal to reinstate him despite the police investigations that cleared him violates his rights to presumption of innocence, equality and work.

### C. Reliefs Sought

19. The Applicant requests the Court for the following reliefs:

- (a) A declaration that the media trial of the [Applicant] by the state and non-state actors, within the [Respondent's] territory is arbitrary, unlawful null and void same having violated the provisions of the Articles 7, 3, 2 of the African Charter on Human and Peoples Right and other applicable International Protocols the Respondents are bound by.
- (b) A declaration that the right of the [Applicant] to presumption of innocence fair hearing and the right to work and equal treatment cannot be suspended on account of unsubstantiated allegations made without legal basis.
- (c) A declaration that by virtue of Article 7 of the African Charter on Human and Peoples Rights the [Respondent] is not competent to put the [Applicant] on trial as the Police found no evidence that he committed any criminal offence whatsoever.
- (d) An order of this Honourable Court mandating the [Respondent] to put in place measures aimed at protecting the Plaintiff's right against media trial by both state and non-state actors within the [Respondent's] territory.
- (e) An order of this Honourable Court restraining the [Respondent] from further violating the rights of the [Applicant] in any manner whatsoever without due process of law.





- (f) An order of perpetual injunction restraining the [Respondent] from charging the [Applicant] with any criminal offence as the Police found no evidence that he committed any criminal offence whatsoever.
- (g) An order of this Honourable Court directing the Respondent to pay over to the [Applicant] the sum of \$500,000. 00 (Five Hundred Thousand Dollars) as general damages for the breach of the human rights of the [Applicant] to freedom from discrimination, right to equality before the law, right to dignity, fair hearing, right to work and physical and mental health.
- (h) An order of this Honourable Court directing the Respondent to pay over to the Applicant the sum of \$10,000.00 (Ten Thousand Dollars) only as cost of prosecuting this suit.

## **VI. CASE OF THE RESPONDENT**

20. Despite service of the initiating Application and other processes filed by the Applicant on the Respondent, the Respondent did not file a Statement of Defence or other process in response to the action in accordance with the Rules of the Court.

## **VII. APPLICATION FOR DEFAULT JUDGMENT**

21. Given the default of the Respondent to file a defence or other response to the case consistent with the Rules of the Court, on 25 November 2022, the Applicant filed an application for default judgment which was electronically



served on the Respondent on 26 November 2022. On 8 April 2024, the Applicant repeated his request for default judgment by filing another application for default judgment dated 25 March 2024 which was served on the Respondent the same day. The Respondent did not file any response or reaction to either application for default judgment.

22. At a session of the Court on 24 September 2024, notice of which was served on both parties, the Applicant was represented in Court by counsel, but the Respondent was absent and not represented. Consistent with the Rules of the Court, Counsel for the Applicant moved the application for default judgment and urged the Court to grant a judgment in favour of the Applicant on the basis of the Initiating Application.

23. Article 90(4) of the Rules of the Court provides that:

“Before giving judgment by default the Court shall, after considering the circumstances of the case consider:

- (a) Whether the application initiating proceedings is admissible
- (b) Whether the appropriate formalities have been complied with, and
- (c) Whether the application appears well founded”.

24. As held in *Chude Mba v. Republic of Ghana* [2013] CCJELR 335, and recently reiterated in *Chukwuemeka Edeh v Federal Republic of Nigeria* ECW/CCJ/JUD/36/24 (para 24), Article 90(4) of the Rules requires the Court to ensure that: (a) it has jurisdiction over the matter; (b) the application is admissible; (c) all formalities, including notice to the Respondent, have been complied with; and (d) the application is well-founded. The Court will now examine each of these requirements.



## VIII. JURISDICTION OF THE COURT

25. Under Article 9(4) of the Court's Protocol, the Court has jurisdiction to determine cases of human rights violations that occur in Member States of the Community. This jurisdiction is properly invoked if an applicant alleges that human rights violations have occurred in a member state and that the state is responsible for those violations, subject to a determination on the merits. (See *Mohammed Morlu v Republic of Sierra Leone* ECW/CCJ/JUD/04/24, para 29).

26. In this case, the Applicant alleges that a media smear campaign against him by state and non-state actors based on unfounded rape accusations have violated his fundamental human rights including the right to be presumed innocent and the right to a fair hearing before an impartial court. Because these allegations implicate the Respondent's human rights obligations under the African Charter and other international human rights instruments cited by the Applicant, the Court concludes that it has jurisdiction under Article 9(4) of the Court's Protocol.

## IX. ADMISSIBILITY OF THE CASE

27. Under Article 10(d) of the Court's Protocol, the three main admissibility requirements for human rights applications that must be satisfied are: (a) the applicant's victim status or standing, (b) the non-anonymity of the application; and (c) the non-pendency of the matter before another international court or tribunal. (*Aziagbede Kokou & Others v Republic of Togo* [2013] CCJELR 167, para 18).

28. The facts pleaded by the Applicant appear to show that alleged conduct of the state and non-state actors relative to the rape accusations may have violated his fundamental human rights. He therefore has standing. The Court also notes that the application is not anonymous and there is no evidence that the Applicant has submitted the same claim to another international court. For these reasons, the Court concludes that the Application is admissible under Article 10(d) of the Court's Protocol, as all admissibility conditions of that provision have been satisfied.

#### **X. COMPLIANCE WITH FORMALITIES**

29. In *Chude Mba v. Republic of Ghana* [2013] CCJELR 335 (paras 70-74) and *Chukwuemeka Edeh v Federal Republic of Nigeria* ECW/CCJ/JUD/36/24 (para 29), the Court held that two key formalities should be satisfied in respect of an application for default judgment. First, consistent with giving the Respondent an opportunity to be heard, it must be shown that the initiating Application was served on the Respondent to enable it to present a defence. Secondly, the application for default judgment must also have been served on the Respondent for a chance to respond.

30. In this case, the records show that the initiating Application was served on the Respondent on 8 November 2021. On 25 November 2022, the Applicant filed an application for default judgment which was electronically served on the Respondent on 26 November 2022. As that application was never moved, it may be deemed as abandoned. However, on 8 April 2024, the Applicant repeated his request for default judgment by filing another application for default judgment dated 25 March 2024 which was served on the Respondent the same day. This latter application for default judgment is what the

Applicant's counsel moved and urged the Court to enter judgment in favour of the Applicant.

31. The Court notes that although counsel for the Respondent appeared before the Court on 2 May 2024 and indicated that the Respondent was minded to defend the action, it has failed to respond to either the Initiating Application or the application for default judgment despite the opportunity to do so under the Rules of the Court. Under these circumstances, the Court holds that the essential formalities required for a default judgment have been satisfied.

#### **XI. MERITS OF APPLICATION FOR DEFAULT JUDGMENT**

32. The Court begins by noting that, in order to grant an application for default judgment, it must satisfy itself that the Initiating Application is well founded in law and in fact. (See *Chude Mba v. Republic of Ghana* [2013] CCJELR 335, paras 75 & 102 and *Chukwuemeka Edeh v Federal Republic of Nigeria* ECW/CCJ/JUD/36/24, paras 31-32). This “implies that the Court must attain the same degree of certainty as in any other case that the claim of the party appearing is sound in law, and, so far as the nature of the case permits, that the facts on which it is based are supported by convincing evidence.” (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States) (Merits; Judgment)* [1986] ICJ Reports 14 (para 28).

33. With these standards in mind, the Court will now assess the two substantive claims submitted by the Applicant: (a) That the smear campaign and media trial to which he was subjected by state and non-state actors without being charged, prosecuted or sentenced by a court of law violated his rights to fair trial, dignity and freedom from torture or other degrading treatment; and (b) that his suspension from his job and refusal to reinstate him despite the police

investigations that cleared him violates his right to be presumed innocent, his right to equal treatment and his right to work.

**(a) Alleged violation of the Applicant's rights to fair trial, dignity and freedom from torture or degrading treatment through a media trial**

*(i) Submissions of the Applicant*

34. On this issue, the Applicant submits that he was subjected to a media trial without being tried in a court of law, convicted or sentenced. He contends that this violated his right to dignity including freedom from torture or degrading treatment and his right to fair hearing contrary to Articles 5 and 7 of the African Charter. Applicant relies on *Djot Bayi and Others v Federal Republic of Nigeria* [2004-2009] CCJELR 245 (para 40), where the Court held that the Respondent's parade of the applicants in that case before the press as though they were criminals when no judge or court had found them guilty, violated their rights to be presumed innocent.

*(ii) Analysis of the Court*

35. The Court begins by noting that under international law, the responsibility of a state for an internationally wrongful act is established when a conduct attributable to the state constitutes a breach of an international obligation binding on the state. (See *Articles on the Responsibility of States for Internationally Wrongful Acts 2001*, art 2 and *Algom Resources Ltd v Republic of Sierra Leone*, ECW/CCJ/JUD/03/23, para 40). Therefore, in determining the alleged violation of the Applicant's rights on the issue, the Court must assess (i) whether the conduct complained of (i.e., the "media trial") is attributable to the Respondent state; and (b) whether it breaches any of the human rights obligations cited by the Applicant.



36. On the question of attribution, the general rule under international law is that a conduct (whether an act or omission) is attributable to a state if it was carried out by an organ, agency, or other instrumentality of the state, regardless of whether it was performing executive, legislative, or judicial functions, and whatever its position within the constitutional structure of the state. (See *Articles on State Responsibility*, art 4). On the other hand, acts of private persons are not attributable to the state unless they were carried out, *inter alia*, in the exercise of an element of governmental authority, under the direction or control of the state, or resulted from the state's failure to prevent them through due diligence. (See *Articles on State Responsibility*, arts 5 and 8; *Jack Rockson & Global Agriculture Development v Liberia*, ECW/CCJ/JUD/16/24, paras 74 & 78; and *Velasquez-Rodriguez v Honduras (Merits)*, IACtHR, Judgment of 29 July 1988, paras 172-173.)

37. On this issue, the Court notes that the evidence annexed to the Application were mainly news articles and other discussions published on various online platforms about the rape accusations made against the Applicant. These were discussions and publications by private individuals, apparently motivated by the public interest in the accusations. The Applicant alleged that there were some public officials including one Mr Fatty Ahmed, the then Minister of the Interior and a Presidential Adviser, who posted false rape accusations against him on Facebook. He provided evidence only of Mr Ahmed's Facebook post. The Court notes, however, that the Facebook post referenced by the Applicant merely condemned rape in general terms and called for an investigation into the allegations made against the Applicant, "without prejudice to the presumption of innocence and due process." This, in the Court's view, was not prejudicial to the Applicant. In any event, considering the context of the publication, including the fact that it was made on Facebook from the private account of the

author rather than through an official press statement or government social media account, the Court does not think that it was made in an official capacity that would make it attributable to the Respondent, assuming the author was indeed a government official at the relevant time.

38. Accordingly, based on his own evidence, the Applicant has not established that the alleged condemnations and smear campaign which he describes as a “media trial”, was in fact carried out by the organs or officers of the Respondent state. It is also not borne out by the evidence that the discussions of the rape accusations on traditional and social media by journalists, bloggers, or other private members of the public were done in exercise of governmental authority or under the direction and control of the Respondent state.
39. Regarding whether the discussions of the rape accusations can be attributed to the Respondent for failing to prevent them, it is important to note that the Respondent has an obligation under Articles 1 and 9 of the African Charter to promote freedom of speech and expression rather than to censor or suppress it. In *Konaté v Burkina Faso* (merits) [2014] 1 AfCLR 314 (para 165), the African Court held that apart from very exceptional instances like prohibition of incitement of international crimes or racial hatred, laws that penalize free expression of ideas or information violate Article 9 of the African Charter. Similarly, this Court held in *Incorporated Trustees of Laws and Rights Awareness Initiatives v Nigeria* (ECW/CCJ/JUD/16/20) that the criminalisation of defamation, insult, false news, and such other conduct are disproportionate and violate freedom of expression. (*Ibid*, paras 161-165).
40. In the light of these, the Court finds that the Respondent was not obligated to prevent or sanction private individuals for discussing the accusations against the Applicant, particularly given the public interest generated by the matter and



the civil remedies for defamation available to the Applicant. Indeed, in the *Konate* case, the African Court emphasized that “freedom of expression in a democratic society must be the subject of a lesser degree of interference when it occurs in the context of public debate relating to public figures.” (*Konate v Burkina Faso*, para 155). Consequently, the alleged failure of the Respondent to prevent the purported media trial of the Applicant does not make the conduct of those private individuals attributable to the Respondent.

41. Given these conclusions on the question of attribution, it is not necessary to discuss whether the purported media trial of the Applicant violates any of the human rights obligations of the Respondent cited by the Applicant. Therefore, the Court concludes that the Applicant’s claim that the Respondent violated his rights to a fair trial, dignity and freedom from torture or degrading treatment through a media trial is not well founded as the said media trial cannot be attributed to the Respondent.

**(b) Alleged violation of the Applicant’s rights to presumption of innocence, equality and work through his interdiction**

*(i) Submissions of the Applicant*

42. On this issue, the Applicant states that he was suspended from his job at the Respondent’s Ministry of Foreign Affairs following the accusations of rape levelled against him. However, he has not been reinstated after the police investigations cleared him of wrongdoing. He therefore urges the Court to find that the Respondent’s conduct has violated his rights to presumption of innocence, equality and work.

*(ii) Analysis of the Court*

43. On this issue, the Court begins by noting that the Applicant annexed to his Application a letter dated 1 July 2019 from the Respondent's Ministry of Foreign Affairs addressed to the Applicant. The letter indicated that following the allegations of rape and sexual misconduct against the Applicant, the Ministry of Foreign Affairs had requested the Public Services Commission to interdict him pending full investigations into the allegations. The Applicant was then directed by the same letter to return home to The Gambia to respond to the allegations.
44. The Court considers that the interdiction or suspension of an employee from their duties pending investigations into alleged misconduct is neither an unusual nor an unreasonable action by an employer. Such measures protect the employer's brand image and other interests while allowing the employee the time and resources needed to prepare and defend themselves during the inquiry or investigation. Therefore, in the absence of proof of victimisation or prejudice, the interdiction or suspension of an employee pending investigations into misconduct cannot be said to violate the employee's right to work, right to equality, or right to be presumed innocent. In this case, given the Applicant's position in the Respondent's Foreign Service and the nature of the alleged misconduct, the Court is of the view that the Respondent's Ministry of Foreign Affairs acted in a manner a prudent and reasonable employer would have acted when it requested the Public Services Commission to interdict the Applicant and directed him to return to The Gambia to respond to the allegations. Accordingly, the Applicant's rights to work, equality, and presumption of innocence were not violated by his interdiction.

45. Regarding the Applicant's claim about the failure to reinstate him despite the police investigations that cleared him of the rape accusations, the Court notes that based on the Applicant's own evidence, the Report of the investigations recommended that the file should be forwarded to the Attorney General, who has the final say on the matter as the chief legal officer of the Respondent. Thus, the question of whether the Applicant has been cleared, is at best, inconclusive at this point.
46. That said, the Court is "also mindful of the impact criminal investigations and their attendant restrictions can have on the liberty, freedom of movement and other fundamental rights of the individual." (*Gregory J Todd v Federal Republic of Nigeria*, ECW/CCJ/JUD/41/23, para 66). Therefore, in the *Gregory Todd* case, the Court, held that "criminal investigations and any restrictions imposed on the subject of the investigation cannot continue interminably." (*Ibid*). Similarly, in *Valentine Ayika v Republic of Liberia* [2012] CCJELR 167 (para 44), the Court held that an "investigation should be conducted within a reasonable time in the light of the facts and circumstances of the case in order not to place such persons who may eventually be found innocent in undue hardship."
47. In this case, the Court notes that investigations into the rape accusations against the Applicant began around July 2019. Based on the newspaper reports on the findings of the police investigation, which the Applicant annexed to the Application, it appears that the investigation report was completed no later than April 2020. The Court considers that a-four-year delay by the Attorney General to take decisive action on the Report for the Applicant to know his fate is concerning. However, within the context of pretrial criminal procedures, an accused person's right to be presumed innocent is typically considered to have



been violated when they are subjected to prolonged pretrial detention, or when prosecutors or other public officials make prejudicial comments or engage in other conduct incompatible with the presumed innocence of the accused. Thus, in *Haregewoin Gabre-Selassie and IHRDA (on behalf of former Dergue Officials) v Ethiopia*, (ACHPR, Comm No. 301/05, paras 207-209), the African Commission held that the prolonged detention of an accused person without trial or a conviction constitutes anticipatory punishment and violates the presumption of innocence. Similarly, in *Gridin v. Russian Federation*, the Human Rights Committee found that the “duty for all public authorities to refrain from prejudging the outcome of a trial” was breached when high-ranking law enforcement officials made widely publicized statements portraying the applicant as guilty. (*Gridin v Russian Federation*, Comm No. 770/1997, paras 3.5 and 8.3) See also Human Rights Committee, General Comment No. 32; Article 14: Right to Equality before Courts and Tribunals and to a fair Trial, (para 30). In this case, the Court notes that the Applicant is not in detention. Also, there is no evidence on the record showing prejudicial public pronouncements or similar conduct by relevant public officials regarding the investigation. Accordingly, the Court does not find that the Applicant’s right to be presumed innocent has been violated solely due to the delay in the criminal investigations against him.

48. On the alleged violation of his right to equality before the law, the Court similarly finds that the Applicant has not demonstrated that, within the context of the pending criminal process against him, he has “experienced discriminatory treatment based on prohibited grounds such as race, ethnicity, gender, or religion, or has been subjected to unjustifiably selective or differential application of the law not extended to similarly situated persons.” (*Al-Hassan Fadia v Togolese Republic*, ECW/CCJ/JUD/17/24, para 64).





Therefore, his claim that the Respondent has violated his right to equality is not well founded, and is accordingly, dismissed.

49. On the issue of the right to work, the Court recalls that while the right to work generally imposes a positive obligation on a state to take legislative and other measures to ensure that individuals can find employment and work under satisfactory conditions, the right “also imposes a negative obligation requiring the state to refrain from actions which may hamper the right of individuals to be employed or earn a living.” (*Al-Hassan Fadia v Togolese Republic*, ECW/CCJ/JUD/17/24, para 103). Admittedly, the prolonged criminal process against the Applicant has not violated his right to be presumed innocent or his right to equality before the law, as the Court has already concluded. However, on the right to work, a different consideration must apply. The Applicant was interdicted around July 2019 and has presumably not been reinstated to his post nearly five years later due to the pending criminal investigation. There is no doubt that this prolonged process has adversely affected his ability to return to his job, work, and earn a living. The Court, therefore, finds that the Applicant’s claim that his right to work has been violated is well-founded and warrants a finding in his favour. The court accordingly enters a judgment in default for the Applicant on the violation of his right to work.

## XII. REPARATIONS

50. On reparations, the Court notes that the Applicant did not request special damages. Instead, he sought general damages of \$500,000 as compensation for all the rights he claimed had been violated by the Respondent. However, the only violation of the Applicant’s rights that the Court found to be well-founded was the violation of the right to work. In light of that finding as well as the fact that it is ultimately up to the Court to exercise its discretion in equity to



determine what constitutes a fair compensation as there are, generally, no decisive benchmarks for such determinations, the Court deems the sum of Ten Thousand Dollars (\$10 000.00), payable in the Respondent's official currency, to be sufficient compensation for the Applicant.

### **XIII. COSTS**

51. Pursuant to Article 66(4) of the Rules of the Court, the Court decides that each party shall bear their own costs.

### **XIV. OPERATIVE CLAUSE**

52. For the foregoing reasons, the Court sitting in public and after a hearing in accordance with the Rules of the Court:

#### ***On jurisdiction***

- i. *Declares* that the Court has jurisdiction to hear the initiating Application and the application for default judgment.

#### ***On Admissibility***

- ii. *Finds* that the initiating Application is admissible within the meaning of Article 10(d) of the Court's Protocol and Article 90(2) of the Rules of the Court.

#### ***On compliance with appropriate formalities***

- iii. *Finds* that the application for default judgment complies with required formalities under Article 90(2) of the Rules of the Court.

***On the Merits of the Default Judgment Application***

- iv. *Finds* that the Applicant's claim that the Respondent has violated his rights to fair trial, dignity and freedom from torture or degrading treatment through a media trial is not well founded to warrant a default judgment and therefore dismisses it.
- v. *Finds* that the Applicant's claim that the Respondent has violated his rights to presumption of innocence and equality due to his interdiction in the Respondent's foreign service is not well founded to warrant a default judgment and therefore dismisses it.
- vi. *Finds and declares* that the Applicant's claim that the Respondent has violated his right to work is well founded to warrant a default judgment and therefore enters judgment for the Applicant on the violation of his right to work.

***On Reparations***

- vii. *Orders* that the Respondent shall pay to the Applicant Ten Thousand Dollars (\$10,000.00), payable in the equivalent of the Respondent's official currency, as compensation for the violation of the Applicant's right to work.
- viii. *Orders* that the Respondent shall, no later than three months from the date of the service of this judgment, make a definitive determination on the status of the criminal investigations or processes concerning the Applicant, either by initiating prosecution or formally discontinuing the criminal processes against the Applicant.

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- ix. *Decides* that all other reliefs sought by the Applicant which have not been herein granted in whole or in part are hereby dismissed.

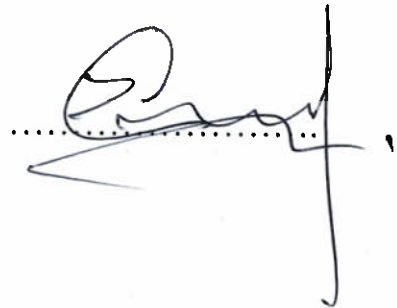
***On Costs***

- x. *Decides* that each party shall bear their own costs.

Done at Abuja this 3<sup>rd</sup> day of December 2024 in English and translated into French and Portuguese.

Hon. Justice Ricardo C.M. **GONÇALVES**

Presiding Judge



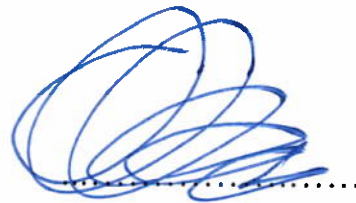
Hon. Justice Dupe **ATOKI**

Member of Panel



Hon. Justice Edward Amoako **ASANTE**

Judge Rapporteur



ASSISTED BY:

Dr. Yaouza **OURO-SAMA** (Chief Registrar)

