THE COMMUNITY COURT OF JUSTICE OF THE

ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

In the Matter of

CENTRE FOR COMMUNITY LAW V FEDERAL REPUBLIC OF NIGERIA

Application No: ECW/CCJ/APP/05/25 Judgment NO. ECW/CCJ/JUD/15/26

JUDGMENT

CONAKRY, GUINEA.

DATE: 15th May 2026.

CENTRE FOR COMMUNITY LAW **- APPLICANT**

V.

FEDERAL REPUBLIC OF NIGERIA **-RESPONDENT**

COMPOSITION OF THE COURT:

Hon. Justice Claudio Monteiro Gonçalves	-Presiding
Hon. Justice Sengu Mohamed Koroma	-Member/Judge Rapporteur
Hon. Justice Amoako Edward Asante	-Member

ASSISTED BY:

Dr. Yaouza OURO-SAMA - Chief Registrar

REPRESENTATION OF PARTIES:

Benjamin O. OJUMAH, Esq. - Counsel for the APPLICANTS

Michael C. AGBO, Esq.

Chioma V. OKEKE

Maimuna Lami SHIRU (Mrs.) -Counsel for the RESPONDENT

Linda OKPARA (Mrs.)

I. JUDGMENT:

1. This is the judgment of the Community Court of Justice ECOWAS (hereinafter referred to as 'the Court') delivered virtually and in open Court under Article 8(1) of the Practice Direction on Electronic Case Management and Virtual Court Session, 2020.

II. DESCRIPTION OF THE PARTIES:

2. The Applicant is the Centre for Community Law; a Non-Governmental Organization registered under the Laws of the Federal Republic of Nigeria.
3. The Respondent is the Federal Republic of Nigeria, a Member State of ECOWAS.

III. INTRODUCTION

4. The present Application calls into question the legality of the Respondent's practice of detaining accused persons in its correctional facilities for prolonged periods while awaiting trial, without the commencement or pursuit of prosecution. The Applicant submits that such practice constitutes a violation of Articles 1, 3, 4, 5, 6, 7, 22, and 26 of the African Charter on Human and Peoples' Rights, as well as other relevant international human rights instruments binding upon the Respondent State.

IV. PROCEDURE BEFORE THE COURT

5. The Applicant commenced the present proceedings by an application filed in the Registry of the Court on 22nd January 2025, which was electronically served on the Respondent on the same date.
6. By processes filed on 28th April 2025, the Respondent brought a Motion seeking an extension of time within which to file its Defense and, contemporaneously,

filed its Defense to the Application. Both processes were served on the Applicant electronically on the same date.

7. On 27th May 2025, the Applicant filed its Reply to the Respondent's Defense, which was electronically served on the Respondent on that same date.
8. The Applicant further filed an Application for Leave to Submit Additional Evidence on 27th May 2025. Service of this application was effected on the Respondent electronically on 29th May 2025.
9. On 24th March 2026, the matter came up during a Virtual Court Session, with both Parties duly represented by Counsel. The Respondent moved Doc. 2, an Application for Extension of Time to file and regularise the Defence. There being no objection from the Applicant, the Court granted the application. The case thereafter proceeded to being heard on the merits. At the close of proceedings, the file was withdrawn for judgment.

V. APPLICANT'S CASE

a. Summary of facts

10. The Applicant, the Centre for Community Law, describes itself as a non-governmental organisation duly registered under the laws of the Federal Republic of Nigeria. It states that its mandate and objectives include the promotion of ECOWAS laws and the enforcement of the guarantees contained therein for the protection of individuals within the ECOWAS region, through enlightenment campaigns as well as judicial and administrative procedures.
11. In furtherance of its case, the Applicant relies on a report recently issued by the Nigerian Correctional Service entitled *"Summary of Inmate Population by Convict and Awaiting Trial Persons as at 23rd December 2024 – Total Inmate Population"*, which indicates that the total inmate population stood at seventy-nine thousand, two hundred and thirty-seven (79,237) persons.

12. According to the said report, of the total inmate population of 79,237 persons, only twenty-six thousand, seven hundred and eighteen (26,718) inmates had been convicted, while fifty-two thousand, five hundred and nineteen (52,519) inmates were awaiting trial.
13. The Applicant further states that these figures represent approximately thirty-four per cent (34%) convicted inmates and sixty-six per cent (66%) awaiting trial inmates.
14. The Applicant contends that a substantial number of inmates awaiting trial are charged with offences that are bailable under Nigerian law and that many of such inmates remain in custodial detention for periods exceeding the maximum sentence prescribed for the offences with which they are charged.
15. The Applicant further submits that the custodial facilities of the Nigerian Correctional Service are severely overcrowded. It argues that, considering the foregoing statistics, the budgetary allocation required for the maintenance and welfare of inmates, particularly those awaiting trial, constitutes a substantial burden on public resources, while simultaneously depriving society of the economic and productive contributions of such persons.

b. Pleas in law

16. The Applicant submits the following pleas in law:

i. Articles 1, 3, 4, 5, 6, 7, 22, and 26 of the African Charter on Human and Peoples' Rights.
ii. Articles 9(3), 14(2) and (3) of the International Covenant on Civil and Political Rights 1966.
iii. Articles 9, 11, 12, 13, of the International Covenant on Economic, Social and Cultural Rights 1966.
iv. Articles 25, 27, 33, of the Protocol A/SP1/12/01 On

Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace keeping and Security.

v. Articles 1 And 2 of The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

vi. Article 4 of The Revised Treaty of The Economic Community of West African States.

vii. Articles 9, 10 and 20 of The Supplementary Protocol (A/SP.1/01/05) Amending the Protocol (A/P. I/7/91) Relating to The Community Court of Justice.

viii. Article 33 of The Rules of The Community Court of Justice.

c. Reliefs

17. The Applicants are seeking the following reliefs from the Court:

1. A DECLARATION that the actions of the Respondent and its agents in incarcerating accused persons without trying them within a reasonable time is unlawful and a violation of their fundamental rights, including the right to presumption of innocence, the right to dignity, the right not to be subjected to cruel inhuman treatment.
2. A DECLARATION that the actions of the Respondent and its agents in incarcerating accused persons without trying them within a reasonable time is a violation of the duty of the Respondent to prevent torture and to provide good government for the people who are deprived of essential services to the tune of

money used to maintain, in prison custody, individuals who should not be in prison but being on bail should be contributing their quota to economy of the Nation, are incongruous to the treaty obligations of the Respondent. This bears in mind that many of the awaiting trial inmates are eventually discharged and acquitted but sometimes after they have spent a longer time in prison than the length of custodial punishment prescribed for the offence.

3. AN ORDER that the Respondent directs its agents to take all necessary steps to review the situation in its prisons with a view to releasing on bail or permanently anyone who is entitled to bail under its criminal law and practice, especially those whose prescribed punishment, if convicted, has been exceeded in prison custody while awaiting trial.
4. AN ORDER directing the Respondent to put machinery in place (including compensation where appropriate) to reintegrate the affected individuals into society.
5. SUCH FURTHER orders the Honorable Court may deem fit to make in the circumstances of this case.

VI. RESPONDENT'S CASE

a. Summary of facts

18. The Respondent denies all and every material allegation contained in the Applicant's Application, save as far as any such allegation is expressly admitted herein.
19. As a Preliminary Objection, the Respondent challenges the competence of the present suit on the ground that the Applicant lacks the requisite *locus standi*,

contending that its stated mandate does not extend to the promotion or enforcement of ECOWAS laws.

20. The Respondent further contends that the report annexed by the Applicant in support of its claims, which is alleged to have emanated from the Nigerian Correctional Service, is false, malicious, speculative, and did not originate from the Respondent or any of its authorised agencies.

21. The Respondent maintains that lawful detention does not amount to a violation of the right to liberty, which right is not absolute. It submits that such right may be lawfully restricted upon reasonable suspicion of the commission of a criminal offence or to the extent necessary to prevent the commission of an offence.

22. The Respondent expressly denies the Applicant's allegation that a substantial number of detainees are charged with offences that are bailable under Nigerian law.

23. In response to the Applicant's assertion that correctional facilities are overcrowded and that budgetary allocations for inmates constitute a drain on public resources, the Respondent asserts that its correctional centres are adequately equipped and provide sufficient psychological, occupational, and educational programmes designed to rehabilitate inmates and prepare them for reintegration into society.

24. The Respondent further emphasises that the fundamental objectives of correctional institutions include the secure custody, control, punishment, and rehabilitation of offenders.

25. With respect to the allegation that budgetary allocations to correctional facilities adversely affect the economy, the Respondent submits that such claims are false, unsubstantiated, and untenable, contending that such allocations have no adverse impact on the economic stability of the State or its citizens.

26. The Respondent states that it has effective legal frameworks in place to ensure the protection of persons accused of criminal offences and that inmates enjoy rights guaranteed under the law to enable them adequately to prepare and present their defence.

27. Consequently, the Respondent submits that the present suit is misconceived, speculative, hypothetical, and academic. It further contends that the Applicant, not being a juristic person capable of suing or being sued, lacks the legal standing to institute the present action.

28. The Respondent further argues that the instant Application is not one for the enforcement of fundamental rights and, in any event, that the rights alleged to have been violated are not enforceable under its Constitution.

29. Considering the foregoing, the Respondent urges the Court to dismiss the Applicant's suit in its entirety as unsubstantiated and devoid of merit.

b. Pleas in law

30. The Respondent submits the following pleas in law:

i. Articles 4, 6,17, 18, 22 ,24, 27, 29 And 61 of The African Charter on Human and Peoples' Rights.

ii. Article 35 of The Rules of The Community Court of Justice, ECOWAS.

iii. Sections 6(6) of The Constitution of The Federal Republic of Nigeria 1999 as Amended.

iv. Article 29(2) Universal Declaration of Human Rights.

c. Reliefs

31. The Respondent prays for the Court to dismiss the Application in the interest of justice.

VII. APPLICANT'S REPLY

32. In its Reply, the Applicant contends that the Respondent has misconceived the nature of the claim and has demonstrated a lack of appreciation of this Court's established jurisprudence. It submits that the Respondent's Defence is devoid of both legal and factual merit. The Applicant further argues that the Respondent's challenge to the jurisdiction of the Court is unsupported by reference to any relevant provision of the Court's Protocol and is therefore without legal foundation. The Applicant also observes that certain remarks contained in the Respondent's submissions are unwarranted and disparaging and are inappropriate in proceedings before this Court.

33. The Applicant maintains that the Respondent has merely issued general and blanket denials without adducing any supporting evidence, whereas the Applicant has sufficiently demonstrated its competence and legal personality to seize the Court. It reiterates that human rights litigation is primarily concerned with holding States accountable for alleged violations of fundamental rights and expresses concern at the Respondent's denial of the authenticity of its own official records.

34. With reference to information published on the Respondent's official website, the Applicant asserts that the website is authentic, functional, and regularly updated. It relies on recent quarterly data indicating that awaiting-trial detainees now number fifty-four thousand and twenty-three (54,023), representing sixty-six per cent (66%) of a total inmate population of eighty-one thousand, two hundred and fifty-four (81,254), an increase from the previously cited figure of fifty-two thousand, five hundred and nineteen (52,519) awaiting-trial inmates out of seventy-nine thousand, two hundred and thirty-seven (79,237). The Applicant attributes this increase to systemic deficiencies in the Respondent's criminal

justice administration and urges the Court to take judicial notice of the fact that official government websites are attributable to the State, noting that no evidence has been presented to suggest that the website is inauthentic or compromised.

35. The Applicant clarifies that the present suit does not challenge the Respondent's authority to effect lawful detention but seeks to draw attention to the worsening ratio of awaiting-trial detainees to convicted inmates. It submits that this situation has resulted in severe prison congestion and constitutes a violation of the presumption of innocence and the right to liberty as guaranteed under Articles 6 and 9 of the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.

36. Relying on an audit conducted by the National Human Rights Commission, the Applicant submits that correctional facilities across all zones within the Respondent State are grossly overcrowded, accommodating approximately thirty-four thousand, five hundred and eighty-one (34,581) inmates against an official capacity of seventeen thousand, one hundred and ninety-one (17,191). It further states that many detainees have been held for periods exceeding five years without trial and are subjected to degrading conditions, including sleeping on bare floors. The Applicant contends that such conditions are in breach of both constitutional and international human rights guarantees.

37. The Applicant further relies on an official video recording of a budget defence session before the House of Assembly involving officials of the Correctional Service to substantiate its claim that the funding of correctional facilities, where most inmates are awaiting trial, constitutes a significant drain on public resources. While acknowledging the existence of criminal justice laws within the Respondent State, the Applicant submits that the Respondent's persistent failure to effectively implement such laws has resulted in the continued violation of inmates' rights.

38. On the issue of *locus standi*, the Applicant argues that this Court has consistently adopted a liberal approach to standing in public interest litigation. It submits that the present Application, which concerns an identifiable class of persons, is neither speculative nor academic, and that it seeks no personal remedy but rather reliefs aimed at the protection of a vulnerable and clearly defined group.

39. In conclusion, the Applicant urges the Court to dismiss the Respondent's objections in their entirety and to uphold the Application as properly constituted, well-founded, and meritorious.

VIII. JURISDICTION

40. Article 9(4) of the Supplementary Protocol of the Court (A/SP.1/01/05) expressly vests this Court with jurisdiction to determine cases involving allegations of human rights violations occurring within the territory of any Member State.

41. The allegation relating to the prolonged detention of persons based on awaiting trial status goes to the very essence of the fundamental right to a fair hearing within a reasonable time, as guaranteed under Article 7 of the African Charter on Human and Peoples' Rights. Such allegations directly implicate the presumption of innocence, as well as other ancillary rights that may be adversely affected by extended detention without trial.

42. The jurisprudence of this Court is settled to the effect that, once an Applicant alleges a violation of human rights, the Court is duly seised of the matter without any preliminary requirement to examine the veracity or merits of the allegation at the jurisdictional stage. A mere allegation of a human rights violation is sufficient to trigger the Court's jurisdiction. See INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/07/24, (Unreported) at page 14, paragraph 56.

43. Accordingly, by virtue of Article 9(4) of the Supplementary Protocol, which empowers the Court to adjudicate alleged human rights violations within the territories of Member States, the jurisdiction of the Court in the present matter, having regard to the facts as pleaded, is firmly established.

44. The Court therefore holds that it possesses the requisite jurisdiction to entertain and determine the present Application.

IX. ADMISSIBILITY

45. The requirements governing the admissibility of applications before this Court are clearly stipulated under Article 10(d) of the Supplementary Protocol (A/SP.1/01/05), which provides that access to the Court shall be open to individuals seeking redress for alleged violations of their human rights, provided that the application: (i) is not anonymous; and (ii) is not pending before another international court for adjudication.

46. This provision has been judicially interpreted as establishing three cumulative requirements for admissibility, namely: (i) that the Applicant possesses *prima facie* victim status; (ii) that the Applicant is not anonymous; and (iii) that the matter is not pending before another international court. See AZIAGBEDE KOKOU & OTHERS V. TOGOLESE REPUBLIC (2013) CCJELR, p. 167, para. 18.

47. In the present case, the Court notes that the Applicant is clearly identified and is therefore not anonymous, thereby satisfying the first requirement. Furthermore, there is no indication on the record that the subject matter of the present Application is pending before any other international tribunal. The requirement of non-pendency is accordingly fulfilled.

48. The third requirement concerns the victim status of the Applicant. This requirement derives from the wording of Article 10(d), which limits access to the

Court to "*victims*" of alleged human rights violations. A literal interpretation of this provision would suggest that only direct victims may have recourse to redress from the Court. It therefore becomes necessary for the Court to determine the legal footing upon which the present Applicant stands, given that it is not itself a direct victim of the alleged violations.

49. The Court observes that the present Application has been instituted in the public interest. Through its evolving jurisprudence, the Court has consistently recognised the standing of persons and entities who, though not directly affected by the alleged violations, bring actions on behalf of an identifiable group of persons who, for several reasons, are unable to institute proceedings on their own behalf. See REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS ACCOUNTABILITY PROJECT (SERAP) V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/08/21, (Unreported) at page 18, paragraph 44.

50. In determining whether a matter qualifies as public-interest litigation, the Court has explained that the doctrine of *actio popularis* is intended to safeguard the enjoyment of collective rights belonging to a community, a society, or a group of indeterminate persons. Public interest litigation thus concern matters that affect the welfare and rights of the public or a substantial segment thereof, particularly where vulnerable or marginalised groups lack the capacity or resources to vindicate their rights. See INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/07/24, (Unreported) at page 21, paragraph 92; and INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V. FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/15/24, (Unreported) at page 25, paragraph 103.

51. The Court's jurisprudence on public-interest actions is now well settled and sets out specific conditions which must be satisfied for such actions to be admissible. See INCORPORATED TRUSTEES OF PRINCE & PRINCESS CHARLES OFFOKAJA FOUNDATION AND PRINCE & PRINCESS CHARLES OFFOKAJA V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/06/25 (Unreported); and PATRICK EHOLOR (PRESIDENT, ONE LOVE FOUNDATION) V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/51/23 (Unreported).

52. In these decisions, the Court affirmed that both natural persons and corporate entities may institute public-interest actions, provided that:

    i. the rights alleged to have been violated are public rights capable of collective enjoyment rather than private rights personal to the Applicant.

    ii. the reliefs sought are intended exclusively for the benefit of the public or an affected group, and not for the personal or proprietary benefit of the Applicant, except where the Applicant forms part of the affected class; and

    iii. although the victims may not be individually identifiable, they must be ascertainable or envisaged by the Court, particularly for the purposes of determining appropriate remedies.

53. In line with this settled jurisprudence, the Court finds that a non-governmental organisation, such as the present Applicant, may competently pursue a claim before the Court in matters of public interest where the foregoing criteria are satisfied.

54. The Respondent nonetheless objects to the admissibility of the Initiating Application, contending that it is not aware of the Applicant's registration as an entity whose mandate includes the promotion of ECOWAS laws. It is trite law

that registration under domestic law constitutes a condition precedent to legal personality. An association seeking to appear before this Court must therefore establish its legal existence by producing credible proof of registration in a Member State. The Court has reaffirmed this principle in LE COLLECTIF POUR LA VÉRITÉ DES URNES TOGO DIASPORA ET LE RÉSEAU DE LA COORDINATION DE LA DIASPORA INDÉPENDANTE TOGOLAISE V. REPUBLIC OF TOGO, JUDGMENT NO: ECW/CCJ/JUD/39/24 (Unreported).

55. In the present case, the Court takes note of the Applicant's Certificate of Incorporation issued under the laws of the Respondent State and tendered as Exhibit 1. This document constitutes *prima facie* evidence of the Applicant's legal existence and entitles it to access the Court in matters of public interest.

56. The Respondent further argues that the present Application falls outside the scope of the Applicant's mandate and objectives. In this regard, the burden rests on the Respondent to substantiate this assertion.

57. The Court recalls that, in civil proceedings, good faith is presumed, and the burden of proof lies on the party alleging the contrary. Accordingly, a party challenging the legal status or mandate of an Applicant must adduce evidence either of the non-existence of the association or of the absence of the legal capacity claimed. Any attempt to shift this burden onto the Applicant constitutes a reversal of the evidential onus. See CNDD V. CÔTE D'IVOIRE, (2009) CCJELR, at page 5, paragraphs 17–18.

58. The Court observes that the Respondent has failed to adduce any credible evidence challenging either the mandate or the legal standing of the Applicant. The Applicant, on its part, has produced a valid certificate of registration issued by an agency of the Respondent State, which constitutes prima facie proof of its legal existence and capacity to institute public-interest proceedings. In the

absence of any evidence to the contrary, the Court presumes the Applicant's good faith.

59. Accordingly, the Court finds that the Applicant has satisfied the requirements for admissibility and has duly established its standing under Article 10(d) of the Supplementary Protocol and declares the application admissible.

60. Furthermore, the Court holds that the Respondent's Preliminary Objection founded on the alleged lack of *locus standi* is therefore dismissed as unfounded.

X. MERITS

61. Having examined the Applicant's pleadings and the reliefs sought, the Court is called upon to determine whether the alleged prolonged incarceration of inmates awaiting trial constitutes a violation of the rights guaranteed under Articles 1, 3, 5, 6, 7, 22, and 26 of the African Charter on Human and Peoples' Rights (ACHPR). In resolving this issue, the Court will consider the following sub-issues:

i. Whether prolonged detention of persons awaiting trial violates the right to liberty under Article 6 of the ACHPR.

ii. The scope of the obligations of the Respondent State under Article 1 of the ACHPR.

iii. Whether such detention infringes the right to a fair hearing under Article 7 of the ACHPR.

iv. Whether the conditions and duration of detention violate the right to dignity inherent in the human person under Article 5 of the ACHPR.

v. Whether the alleged practice violates the right to equality before the law.

Whether prolonged detention of persons awaiting trial violates the right to liberty under Article 6 of the ACHPR.

Applicant's case

62. The Applicant submits that the prolonged incarceration of persons held in detention centers across the Respondent State, particularly the 54,023 inmates classified as awaiting trial out of a total prison population of 81,254, constitutes a gross violation of the right to liberty guaranteed under Article 6 of the ACHPR. In support of this claim, the Applicant relies on data obtained from the Respondent's official website, asserting that the website remains active and that the records published therein are authentic.

Respondent's case

63. The Respondent denies the allegations, arguing that lawful detention, which is permissible under Article 6 of the ACHPR, cannot amount to a violation of the right to liberty, which is not absolute. The Respondent further contends that the Applicant has failed to identify specific victims with sufficient particulars and challenges the reliability of the statistics relied upon, asserting that they were not officially issued by the Respondent. The Respondent accordingly urges the Court to dismiss the Application as speculative, academic, and devoid of merit.

Analysis of the Court

64. Article 6 of the ACHPR provides that: *"Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained."* The purpose of this provision is to safeguard individuals against arbitrary and unjustified deprivations of liberty. Detention becomes arbitrary where it is prolonged without trial, is not founded

on judicial justification, or where its duration exceeds what is reasonable in the circumstances.

65. The Court has consistently held that detention may be arbitrary even where it is consistent with domestic law, if it is characterised by bad faith, deception, or abuse of power by State authorities. MARTIN GEGENHEIMER & 3 ORS V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/03/21, (Unreported) at paragraph 106.

66. The Court observes that the Respondent's defence is twofold: first, that the evidence relied upon by the Applicant did not emanate from its official website; and second, that the Applicant failed to identify specific individual victims.

67. With respect to the latter, the Court recalls that the present suit was instituted in the public interest. In such circumstances, it is settled jurisprudence that the identification of specific victims is not a *sine qua non* for admissibility or proof. What is required is credible evidence demonstrating that the alleged violation affects a significant segment of the public and constitutes a continuing breach of human rights. The Court has thus held that in *actio popularis*, an applicant need only establish a legitimate public interest and a justiciable claim. THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVE V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/16/20 (Unreported); PATRICK EHOLOR V. FEDERAL REPUBLIC OF NIGERIA (supra).

68. Accordingly, the Court finds that the absence of specifically identified victims does not defeat the present application.

69. Turning to the authenticity of the statistical evidence, the Court notes that the Applicant tendered several exhibits, including Exhibit 2, being a statistical summary from the Respondent's Correctional Service Portal accessed on 29th December 2024. The document, though denied by the Respondent, indicated a

total inmate population of 79,237, comprising 26,718 convicted inmates and 52,519 inmates awaiting trial. The Applicant provided the corresponding web link and date of access.

70. The Applicant also tendered corroborative evidence, including online newspaper publications and a televised parliamentary budget defence during which correctional officials publicly acknowledged the figures, admitting to overcrowding and underfunding. The Court observes that the figures disclosed in these official proceedings correspond with those published on the Respondent's website.

71. While it is trite that online publications alone may be insufficient to discharge the burden of proof, corroborative evidence, particularly official admissions, confers significant probative value. See SERAP V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/12/22, (Unreported) at paragraph 61.

72. It is a settled principle of law that he who asserts must prove. However, once an applicant establishes *prima facie* credible evidence, the burden shifts to the respondent to rebut such evidence with cogent proof. As this Court has held, alleging a violation requires evidence capable of shifting the burden of proof and tipping the scale of probability. See MATTHEW ISABU V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/41/22, (Unreported) at paragraph 58.

73. In the present case, the Applicant's reliance on publicly accessible and verifiable records, coupled with official admissions, was sufficient to discharge its initial burden. The Respondent, however, failed to produce any countervailing evidence, such as an affidavit, disclaimer, or corrected official data, to challenge the authenticity of the impugned records. However, mere denials, unsupported by proof, are inadequate and cannot prevail over documentary and corroborated

evidence. IBRAHIMA KASSUS DIOUBATE & ANOR V. REPUBLIC OF GUINEA, JUDGMENT NO: ECW/CCJ/JUD/14/20, (Unreported) at page 39.

74. Moreover, the information in question lies peculiarly within the knowledge of the Respondent, as the custodian of correctional facilities and prison records. In such circumstances, the party in control of the records bears the responsibility to account for them.

75. Having examined the totality of the evidence, the Court finds the documents tendered by the Applicant to be authentic and credible. In the absence of any rebuttal, the Court accepts them as sufficient proof and draws an adverse inference against the Respondent for its failure to produce contrary evidence, consistent with the principle affirmed in DR. GEORGE S. BOLEY V. REPUBLIC OF LIBERIA, JUDGMENT NO: ECW/CCJ/JUD/24/19, (Unreported) at paragraph 68.

76. The Respondent further denied that a substantial number of detainees are held for bailable offences. However, once the Applicant established a prima facie case, the burden shifted to the Respondent to justify the legality and necessity of such detention, as affirmed in GODSWILL TOMMY UDOH V. FEDERAL REPUBLIC OF NIGERIA, (2016) CCJELR, page 17.

77. The statistical evidence demonstrating that three-quarters of the prison population consists of persons awaiting trial reveals a grave dysfunction within the Respondent's criminal justice system. Such large-scale pre-trial detention, often extending beyond the maximum sentence prescribed for the alleged offences, cannot be justified under domestic or international law.

78. The African Commission on Human and Peoples' Rights has consistently held that prolonged pre-trial detention without trial constitutes arbitrary detention, even when carried out under the guise of domestic law. Similarly, Article 9 of the International Covenant on Civil and Political Rights, to which the Respondent is

a State Party, requires that persons be tried within a reasonable time or released pending trial. LAW OFFICE OF GHAZI SULEIMAN V. SUDAN (Comm. Nos. 222/98 & 229/99); MEDIA RIGHTS AGENDA V. NIGERIA (Comm. No. 224/98).

79. The cumulative evidence before the Court, comprising official statistics, corroborated public admissions, and the Respondent's failure to rebut, establishes beyond reasonable doubt that the prolonged detention of tens of thousands of persons without trial constitutes a continuing violation of the right to liberty under Article 6 of the ACPHR.

80. Accordingly, the Court finds that the Respondent has violated Article 6 of the ACHPR by failing to ensure that persons deprived of their liberty are tried within a reasonable time or released pending trial.

On the scope of the obligations of the Respondent State under Article 1 of the ACHPR.

Applicant's case

81. The Applicant contends that the custodial facilities of the Nigerian Correctional Service are severely overcrowded. It submits that, considering the prevailing inmate population, particularly the high number of persons awaiting trial, the budgetary allocations devoted to inmate welfare constitute a significant burden on public resources, while simultaneously depriving society of the potential economic and productive contributions of such persons.

Respondent's case

82. The Respondent, on the other hand, submits that cases are treated in accordance with their respective peculiarities and contends that its Correctional Service is

408

equipped with adequate facilities and programs, including psychological, occupational, and education-focused initiatives, aimed at rehabilitating inmates and preparing them for successful reintegration into society.

Analysis of the Court

83. Article 1 of the ACHPR provides that: *"The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them."*

84. The Court feels it necessary to instruct that International Law is firmly anchored in the principle of State responsibility, as reflected in the International Law Commission's Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001), which codify the fundamental rule that every internationally wrongful act of a State entails the international responsibility of that State. In accordance with this principle, a State bears the obligation to take all necessary measures to ensure the effective implementation of its international commitments and to protect persons within its jurisdiction from unlawful interference with their rights. See GANTA SUPPORT GROUP & ANOTHER V. REPUBLIC OF LIBERIA, JUDGMENT NO: ECW/CCJ/JUD/21/23, (Unreported) at page 32, paragraph 79.

85. In the present case, while the Applicant argued that the Respondent continues to expend scarce public resources in maintaining an excessive number of inmates awaiting trial, to the detriment of broader societal needs, the Court observes that no specific or corroborative evidence was adduced to establish a direct causal nexus between the cost of sustaining such detainees and the alleged diversion of public funds from essential social sectors. That aspect of the Applicant's claim therefore remains unsubstantiated.

408

86. Notwithstanding the foregoing, the Court notes that, during the Respondent's budgetary defence before its national legislature, officials of the Correctional Service openly acknowledged both the inadequacy of the budgetary allocation per inmate and the overcrowded condition of correctional facilities.

87. The Court considers this admission to be of particular significance, as it evidences a continuing administrative failure on the part of the Respondent to adopt and implement effective structural, institutional, and policy measures capable of addressing prolonged pre-trial detention and the resulting strain on correctional infrastructure.

88. The obligation imposed by Article 1 of the ACHPR requires a State Party to adopt appropriate legislative measures where such measures do not already exist to give effect to the rights guaranteed therein. Conversely, where existing laws, practices, or customs impede the enjoyment of Charter-protected rights, Article 1 imposes a duty on the State to amend or abolish such impediments. See ADVOCAID LIMITED V. REPUBLIC OF SIERRA LEONE, JUDGMENT NO: ECW/CCJ/JUD/33/24, (Unreported) at page 28, paragraph 84.

89. This obligation extends beyond the formal recognition of rights in domestic law. It encompasses the adoption of effective mechanisms, including judicial reforms, efficient prosecution policies, periodic review of detention cases, and the use of alternative, non-custodial measures, aimed at preventing arbitrary or prolonged detention. The Respondent's failure to operationalise such safeguards within its criminal justice system has resulted in persistent and widespread violations engaging its responsibility under the ACHPR.

90. Furthermore, the acknowledged inadequacy of budgetary provision per inmate reveals a misalignment between the Respondent's allocation of resources and its human rights obligations. While the Court is unable, on the basis of the record before it, to make a finding of financial mismanagement or diversion of public

funds, it nonetheless finds that the State's admitted underfunding of its correctional facilities, when viewed alongside the continued detention of a substantial number of untried persons, discloses a pattern of neglect incompatible with its duty to ensure the effective enjoyment of the rights to liberty and human dignity.

91. Accordingly, the Court holds that the Respondent State, by failing to adopt and implement appropriate legislative and administrative measures to prevent the abuse of pre-trial detention, and by maintaining conditions that perpetuate prison overcrowding, has violated its obligations under Article 1 of the ACHPR.

Whether such detention infringes the right to a fair hearing under Article 7 of the ACHPR.

92. Article 7(1) of the African Charter on Human and Peoples' Rights provides as follows:

"Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts violating his fundamental rights; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; and (d) the right to be tried within a reasonable time by an impartial court or tribunal."

93. The Applicant has alleged a violation of Article 7 of the ACHPR, directing its arguments principally to the presumption of innocence under subparagraph (b). However, having regard to the factual circumstances of the present case, particularly the prolonged detention of a substantial number of inmates without trial, and noting that the Applicant invoked Article 7 in its entirety, the Court

considers it appropriate to also examine the complaint in light of Article 7(1)(d), which guarantees the right to be tried within a reasonable time.

94. The presumption of innocence and the right to be tried within a reasonable time are closely interconnected guarantees. Together, they ensure that persons accused of criminal offences are not subjected to punishment prior to conviction and that criminal proceedings are conducted with due diligence, fairness, and expedition. Where an individual is held in custody for an extended period without trial, the presumption of innocence is rendered largely illusory, and the right to a fair hearing is undermined in its very essence.

95. The right to be presumed innocent until proven guilty is a fundamental human right and constitutes a core principle governing the treatment of accused persons throughout the criminal process, from investigation to trial and final appeal. See CHÉRIF MADI V. REPUBLIC OF NIGER, JUDGMENT NO: ECW/CCJ/JUD/24/2022, (Unreported) at paragraph 151.

96. In this regard, a State may be found in violation of the presumption of innocence where it is established that its officials, through acts of commission or omission, portray an individual as guilty of the offence alleged prior to a determination by a competent court. See ELLEN K. CORKRUM V. REPUBLIC OF LIBERIA, JUDGMENT NO: ECW/CCJ/JUD/19/19, (Unreported) at page 20.

97. In the instant case, the Court notes from the records of the Respondent's Correctional Service that the total inmate population stands at approximately seventy-two thousand (72,000), of whom more than fifty-two thousand (52,000) are awaiting trial. A significant number of these detainees have remained in custody for prolonged periods, in some instances for several years, without any meaningful advancement of their prosecution. Such delays, in the absence of sufficient justification, amount to a constructive denial of justice and are tantamount to punishment without conviction.

98. The Respondent has failed to demonstrate that the prolonged detention of these inmates is justified by exceptional circumstances, nor has it shown that effective measures have been taken to expedite criminal proceedings or to implement alternative, non-custodial measures. The Court recalls its settled jurisprudence that where delays attributable to the judicial or prosecutorial authorities result in extended pre-trial detention, the State bears responsibility for violating both the right to liberty and the right to a fair hearing within a reasonable time.

99. The right to be tried within a reasonable time constitutes one of the cardinal elements of the right to a fair trial. It is intended not only to prevent individuals from being kept in prolonged uncertainty as to their legal fate, but also to ensure that justice is administered effectively and within a time frame consistent with the interests of justice. An unreasonable delay in judicial proceedings engages the international responsibility of the State. See KAM SIBIRI ERIC V. BURKINA FASO, JUDGMENT NO: ECW/CCJ/JUD/10/23, (Unreported) at page 18.

100. In this respect, the Court is guided by persuasive jurisprudence of the European Court of Human Rights, which has held that judicial proceedings are characterized by significant delays, prosecutorial inertia, and prolonged inactivity. Such deficiencies deprive applicants of effective access to justice. As that Court has observed, justice delayed is often denied, particularly where the lack of diligence on the part of State authorities renders investigations and trials ineffective. See DURDAJ AND OTHERS V. ALBANIA, Applications No. 63543/09, Judgment of 7 November 2023, paragraph 233.

101. In light of the foregoing, the Court finds that the Respondent's practice of detaining untried persons for extended and indeterminate periods undermines the presumption of innocence guaranteed under Article 7(1)(b) and violates the right to be tried within a reasonable time as enshrined in Article 7(1)(d) of the ACHPR.

102. The Court therefore holds that the Respondent State has violated Article 7(1)(b) and (d) of the African Charter on Human and Peoples' Rights.

Whether the conditions and duration of detention violate the right to dignity inherent in the human person under Article 5 of the ACHPR.

103. The right to dignity of the human person, as guaranteed under Article 5 of the African Charter on Human and Peoples' Rights, is inherent, inviolable, and non-derogable. This right subsists notwithstanding lawful detention and imposes upon State authorities a continuous obligation to ensure humane conditions consistent with respect for human dignity.

104. With respect to the allegation of torture, the Court recalls that Article 5 of the ACHPR proscribes all forms of torture, as well as cruel, inhuman, or degrading treatment or punishment. However, the Applicant has not adduced sufficient evidence to establish that acts amounting to torture were inflicted upon inmates in the present case. In the absence of proof, the allegation of torture cannot be sustained. The Court shall therefore proceed to examine the remaining aspects of Article 5 alleged to have been violated.

105. In the instant case, the evidence before the Court establishes that a considerable number of inmates are detained in overcrowded correctional facilities and have remained in such conditions for prolonged periods while awaiting trial. Conditions characterised by severe overcrowding, inadequate space, poor sanitation, and the absence of basic humane living standards constitute degrading and inhuman treatment incompatible with the preservation of human dignity.

106. This finding is consistent with applicable international human rights standards, notably the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which require that all

persons deprived of liberty be treated with respect for their inherent dignity and worth as human beings.

107. The Court has consistently held in its jurisprudence that State authorities are under a positive obligation to safeguard the dignity and well-being of persons in their custody and must not be found in dereliction of that duty. See MARTIN GEGENHEIMER & OTHERS V. FEDERAL REPUBLIC OF NIGERIA & ANOTHER, JUDGMENT NO: ECW/CCJ/JUD/03/21, (Unreported) at page 35, paragraph 125.

108. The Court therefore holds that the continued detention of inmates under the conditions described constitutes a violation of the right to dignity guaranteed under Article 5 of the ACHPR, as reinforced by applicable international standards.

109. The Court further observes that the violations established under Articles 6 and 7 of the ACHPR are not isolated or incidental but are indicative of a systemic failure by the Respondent to discharge its obligations under Article 1 to recognise and give effect to the rights guaranteed therein. The prolonged detention of tens of thousands of persons awaiting trial reveals fundamental deficiencies in the Respondent's criminal justice system, marked by investigative delays, prosecutorial inertia, adjudicative inefficiency, and the absence of effective safeguards against arbitrary detention.

110. These systemic deficiencies have resulted in a cumulative pattern of human rights violations: the right to liberty under Article 6 is infringed when individuals remain in custody without trial; the presumption of innocence under Article 7(1)(b) is rendered ineffective where detention assumes a punitive character; and the right to be tried within a reasonable time under Article 7(1)(d) is violated where persistent delays occur without corrective measures.

111. The cumulative effect of these violations demonstrates the Respondent's breach of its positive obligations under Article 1 of the ACHPR to adopt and implement effective legislative, administrative, and judicial measures capable of preventing and remedying such infringements. The Court therefore concludes that the Respondent's failure to address these structural deficiencies amounts to a continuing violation of Articles 1, 5, 6, and 7(1)(b) and (d) of the African Charter on Human and Peoples' Rights.

Whether the alleged practice violates the right to equality before the law.

112. Article 3 of the African Charter on Human and Peoples' Rights provides that: *"Every individual shall be equal before the law and shall be entitled to equal protection of the law."* This right guarantees that all persons are treated equally under domestic law and enjoy protection against arbitrary differentiation in the enjoyment of fundamental rights.

113. The Applicant alleges that the Respondent's practice of detaining a large number of persons awaiting trial, many for prolonged periods, results in discriminatory treatment. It is contended that such detention disproportionately affects marginalized and economically disadvantaged individuals, who lack the resources to expedite their legal proceedings, obtain bail, or secure effective legal representation.

114. The Court observes that the right to equality before the law entails not only formal equality, whereby laws apply to all persons in the same manner, but also substantive equality, which requires that States adopt measures to prevent structural or systemic discrimination in the enjoyment of rights. See SERAP V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/08/21, (Unreported) at paragraph 44; ADVOCAID LIMITED V.

REPUBLIC OF SIERRA LEONE, JUDGMENT NO: ECW/CCJ/JUD/33/24, (Unreported) at paragraph 84.

115. In the present case, the record establishes that a significant majority of the Respondent's prison population comprises individuals awaiting trial, many of whom have remained in custody for years. While the Respondent maintains that detention is applied uniformly in accordance with its laws, the Court notes that such laws and practices have a disproportionate impact on those unable to exercise means of self-liberation, such as bail, legal representation, or timely appeal, thereby creating de facto inequality in the enjoyment of the right to liberty and fair trial.

116. The Court further observes that equality before the law is not limited to the content of statutory provisions but extends to the administration of justice and the treatment of persons in custody. Systemic delays, overcrowding, and inadequate access to legal remedies disproportionately affect certain categories of inmates, particularly the poor and vulnerable, placing them at a disadvantage relative to others who may have means to secure their release or expedite proceedings.

117. The Court recalls its settled jurisprudence that the failure to address structural or procedural factors that result in differential treatment of persons in similar situations constitutes a violation of the right to equality before the law. In the present case, the Respondent has not demonstrated that measures have been adopted to mitigate the disproportionate impact of pre-trial detention or to ensure that all detainees enjoy equal protection of the law.

118. Considering the foregoing, the Court finds that the Respondent's prolonged detention of untried inmates, coupled with systemic deficiencies in the administration of justice, results in unequal treatment before the law and disproportionately affects those unable to access resources to assert their rights.

119. The Court therefore concludes that the Respondent State's practice, as established on the evidence, violates the right to equality before the law under Article 3 of the African Charter on Human and Peoples' Rights.

Other Unproven Allegations

120. With respect to the alleged violations of Articles 3, 22, and 26 of the ACHPR, the Court finds that no sufficient factual or evidential basis has been established linking the Respondent's conduct to any breach of these provisions. The Application on these heads therefore fails and is dismissed.

XI. REPARATIONS

121. The establishment of an internationally wrongful act attributable to a State entails a corresponding duty to make reparations. The Court has consistently held that an order for reparation may only be made where the harm in question is established to have occurred and where there exists a causal link between the wrongful act and the harm suffered. See KARIM MEÏSSA WADE V. REPUBLIC OF SENEGAL (2013) CCJELR, at pages 231, 257, paragraph 93.

122. Reparation may take the form of compensation, restitution, satisfaction, or a combination thereof. In the present case, the Applicant has not sought orders for compensation or restitution. The reliefs sought are primarily in the nature of satisfaction, consisting of declaratory and mandatory orders requiring the Respondent to take measures to prevent overcrowding in its correctional facilities and to ensure the prompt trial of persons held in awaiting-trial status.

123. Having found that the continued detention of 55,027 inmates across the Respondent's correctional facilities constitutes a violation of their rights under the ACHPR, and that the Respondent has failed to discharge its obligations under Article 1 particularly the duty to adopt effective measures to prevent prolonged

and arbitrary detention, the Court considers it just and appropriate to grant an order directing the Respondent to take all necessary and reasonable steps to decongest its correctional facilities, review the cases of inmates on awaiting-trial status, and establish mechanisms to prevent the recurrence of prolonged pre-trial detention.

124. The Court grants the other reliefs sought by the Applicant only to the extent indicated in the operative clause of this judgment.

XII. COSTS

125. Article 66 (1) of the Rules of Court states that "*A decision as to costs shall be given in the final judgment or in the order, which closes the proceedings.*"

126. Furthermore, Article 66(2) of the Rules of Procedure provides that "*The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings*".

127. In the circumstances of the present case, and in the exercise of its discretionary power under Article 66 of the Rules of Court, the Court considers it equitable that each Party shall bear its own costs. Accordingly, each Party is ordered to bear its own costs of these proceedings.

XIII. OPERATIVE CLAUSE

For the reasons set out above, the Court, sitting in public:

As to Jurisdiction

i. Declares that it has jurisdiction over the present Application.

As to Admissibility

ii. Declares that the Application is admissible, the Applicant having satisfied the requirements for an *actio popularis*.

On the Merits

iii. Declares that the Respondent, by the prolonged detention of a substantial number of persons without trial, has violated their right to liberty under Article 6 of the African Charter on Human and Peoples' Rights.

iv. Declares that the Respondent, by the prolonged detention of a substantial number of persons without trial, has violated the rights to the presumption of innocence and to be tried within a reasonable time, contrary to Articles 7(1)(b) and (d) of the African Charter on Human and People's Rights.

v. Declares that the Respondent, by the continued detention of persons in overcrowded correctional facilities, has violated their right to dignity inherent in the human person, contrary to Article 5 of the African Charter on Human and People's Rights.

vi. Declares that the Respondent State has failed to fulfil its obligations under Article 1 of the African Charter on Human and People's Rights to adopt legislative, administrative, and institutional measures necessary to give effect to the rights guaranteed therein and to prevent their violation.

vii. Dismisses all other claims by the Applicant, whether in whole or in part.

viii. Directs the Respondent to take immediate and concrete steps to establish a mechanism for the periodic judicial review of all cases of persons in pre-trial detention exceeding statutory limits.

ix. Orders the Respondent to introduce and implement a comprehensive prison decongestion policy, including the adoption of non-custodial measures for minor and bailable offences.

x. Orders the Respondent, within six (6) months from the date of this judgment, to submit to the Court a detailed report on the measures taken to comply with this decision, including statistical updates on the number of inmates released or tried.

As to costs:

xi. Orders that the parties should bear their own costs.

Hon. Justice Claudio Monteiro **GONÇALVES** – Presiding .....

Hon. Justice Sengu Mohamed **KOROMA**-Judge Rapporteur .....

Hon. Justice Edward Amoako **ASANTE** - Member .....

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

Done in Conakry, this 15th day of May 2026, in English and translated into French and Portuguese.