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

No. 1164 JOSEPH GOMWALK STREET, GUDU 900110 FCT, ABUJA-NIGERIA. PMB 567 GARKI, ABUJA
TEL: 234-9-78 22 801
Website: www.courtecowas.org

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

In the Matter of

KAMANA PIYABALO
(APPLICANT)

v

TOGOLESE REPUBLIC
(RESPONDENT)

Application No. **ECW/CCJ/APP/13/24;** *Judgment No.* **ECW/CCJ/JUD/20/26**

JUDGMENT

CONAKRY

18 MAY 2026

THE COMMUNITY COURT OF JUSTICE OF THE
ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)
HOLDEN AT CONAKRY, GUINEA
Application No: **ECW/CCJ/APP/13/24;** *Judgment No.* **ECW/CCJ/JUD/20/26**

BETWEEN

KAMANA PIYABALO **-APPLICANT**

AND

TOGOLESE REPUBLIC **-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:

Maitre Raphael N. Kpande-Adzare - Counsel for APPLICANT

No Representation -For 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. The Applicant, Mr Piyabalo Kamana is a former soldier in the Togolese Armed Forces.

3. The Respondent, the Togolese Republic, is an ECOWAS Member State and a party to the African Charter on Human and Peoples' Rights 1981 (African Charter) and the International Covenant on Civil and Political Rights 1966 (ICCPR).

III. INTRODUCTION

Subject Matter of the Proceedings

4. The Applicant, a former soldier in the Togolese army, alleges that following false accusations of stealing a weapon, he was arrested, maltreated, detained by the National Intelligence Agency and other security agencies of the Respondent, and dismissed from the Togolese Armed Forces. The Applicant states that altogether he was held in preventive custody for 16 months without being charged or brought before any court. That upon his eventual release, he was promised reinstatement into the army, but no such reinstatement has been effected. The Applicant contends that these acts constitute violations of his fundamental human rights, in particular his right to liberty, the right to a fair hearing, and the right to work.

IV. PROCEDURE BEFORE THE COURT

5. The Applicant commenced this proceeding by an Application dated 12 March 2024 which was filed at the Registry of the Court on 13 March 2024 and served on the Respondent on the same day, 13 March 2024.

6. On 23 September 2024, the Applicant filed an application for default judgment which was served on the Respondent the same day.

7. At a session of the Court on 17 March 2025, the Applicant was represented in Court by counsel while the Respondent was absent and not represented. The Court proceeded to hear the Applicant on his application for default judgment and adjourned for deliberations and judgment.

V. APPLICANT'S CASE

A. Summary of Facts

8. The Applicant, Mr Piyabalo Kamana, says that he is a professional soldier who served as a storekeeper and armourer in the Armoured Reconnaissance and Support Regiment in the Respondent's armed forces.

9. The Applicant states that on 28 July 2010, he was falsely accused of stealing a "Herstal" automatic weapon, described as a silenced machine pistol. Despite denying any knowledge of the disappearance of the weapon, his superiors subjected him to a trial by ordeal, during which he was subjected to abusive, humiliating and degrading treatment in an attempt to establish his innocence or guilt.

10. Subsequently, he was transferred to the custody of the National Intelligence Agency, where he was held incommunicado for six months under harsh conditions. On 7 February 2011, the Agency further transferred him to the Lomé National Gendarmerie, where he remained in detention until 5 August 2011, before being sent to the Lomé Civilian Prison.

11. Meanwhile, on 25 February 2011, the Applicant says that the Minister of Defence and Veterans (by Decision No. 11-0070/MDAC/CAB/11) dismissed him from the Togolese Armed Forces on disciplinary grounds.

12. According to the Applicant, from 28 July 2010 when he was initially arrested to 5 August 2011, he was held in preventive custody without a warrant or charge and without being brought before any court.

13. The Applicant says that on 16 December 2011, after sixteen months in detention, he was released without trial, on the assurance that he would be reinstated into the Togolese Armed Forces. However, no such reinstatement has been effected.

14. Accordingly, the Applicant contends that the Respondent has violated his fundamental human rights, including the right to liberty, the right to work, and the right to a fair trial.

B. Pleas in Law

15. The Applicant submits the following pleas in law:

(i) That the Court has jurisdiction over the Application.

(ii) That the Application is admissible.

(iii) That the Respondent has violated his right to liberty.

(iv) That the Respondent has violated his right to a fair trial including the presumption of innocence.

(v) That the Respondent has violated his right to work.

C. Reliefs Sought

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

(i) A declaration that the Court has jurisdiction over the Application

(ii) A declaration that the Application is admissible.

(iii) A declaration that the Respondent has violated his right to liberty and security of the person.

(iv) A declaration that the Respondent has violated his right to fair trial including the presumption of innocence.

(v) A declaration that the Respondent has violated his right to work.

(vi) An order directing the Respondent to compensate the Applicant in the sum of 77 million CFA francs.

(vii) An order directing the Respondent to pay the cost of the proceedings.

VI. RESPONDENT'S CASE

17. Despite service of the Application on the Respondent, it did not file a defence or other response to the Application.

VII. APPLICATION FOR DEFAULT JUDGMENT

18. Given the default of the Respondent to file a defence or other response to the case consistent with the Rules of the Court, the Applicant, on 23 September 2024, filed an application for default judgment.

19. The application for default judgment was served electronically on the Respondent the same day, 23 September 2024. However, the Respondent did not file any response or reaction to the application.

20. At a session of the Court on 17 March 2025, the Applicant was represented by his counsel while the Respondent was absent and not represented. In the default of the Respondent to file any defence or response to the Initiating Application, the Court proceeded to hear the Applicant's request for default judgment and adjourned for deliberation and judgment.

21. The Court recalls Article 90(4) of the Rules of the Court which states:

> 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.

22. In *Chude Mba v. Republic of Ghana* [2013] CCJELR 335 and *Chukwuemeka Edeh v Federal Republic of Nigeria* [ECW/CCJ/JUD/36/24], the Court noted that Article 90(4) requires it 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 examine each of these requirements in turn.

VIII. JURISDICTION OF THE COURT

23. 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 when an application 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).

24. The Applicant alleges a violation of his rights to liberty, the right to fair trial and presumption of innocence, and the right to work arising from his arrest, detention and dismissal from the Togolese army on a false accusation of stealing. Because these allegations implicate, *prima facie*, the Respondent's human rights obligations under the African Charter and the ICCPR which the Applicant has invoked, the Court concludes that it has jurisdiction under Article 9(4) of the Protocol of the Court.

IX. ADMISSIBILITY OF THE APPLICATION

25. Under Article 10(d) of the Court's Protocol, the three main admissibility requirements for human rights applications 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. (*Aziagbede Kokou & Others v Republic of Togo* [2013] CCJELR 167, para 18).

26. The facts pleaded by the Applicant show, *prima facie*, that the conduct of the Respondent's security agencies may have violated his rights as alleged. 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 OF NOTICE

27. 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 an opportunity to respond.

28. Given the Court's findings in paragraphs 14 to 16 above, regarding the Respondent's failure to file a defence or any response to the Applicant's documents despite being duly served, the Court holds that the relevant formalities of notice to the Respondent have been complied with.

XI. MERITS OF THE APPLICATION FOR DEFAULT JUDGMENT

29. To grant an application for default judgment, the Court 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).

30. With these standards in mind, the Court will now assess the three substantive claims submitted by the Applicant: (a) that the Respondent has violated his right to liberty; (b) that the Respondent has violated his right to a fair trial including the presumption of innocence; (c) that the Respondent has violated his right to work.

A. Alleged violation of the Applicant's right to liberty

(i) Submissions of the Applicant

31. On this issue, the Applicant submits that he was arrested on 28 July 2010 for allegedly stealing a pistol from the armoury of the Togolese armed forces where he worked. His superiors subjected him to a trial by ordeal after which he was held in custody, incommunicado, at the premises of the Togolese National Intelligence Agency. He was subsequently transferred to the custody of the National Gendarmerie, and then to the Lomé Civilian Prison. The Applicant states that in total, he spent 16 months in detention without any charges or trial.

32. The Applicant contends that this conduct of the Respondent violates his right to liberty under Article 6 of the African Charter and Article 9 of the ICCPR.

(ii) Analysis of the Court

33. The Court begins by recalling Article 6 of the African Charter which provides:

> 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.

34. Similarly, Article 9(1) of the ICCPR provides:

> "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

35. It follows from the above provisions, that for the arrest or detention of an individual to be lawful and non-arbitrary, and hence, compliant with Article 6 of the African Charter and Article 9 of the ICCPR, it must first be on grounds provided by law. However, merely because an arrest or detention is legal by reason of having a basis in law, does not mean that it may not be arbitrary. Accordingly, in *General Comment No 35 (2014): Liberty and Security of Person (Article 9 of ICCPR)* (para 12), the Human Rights Committee states:

> An arrest or detention may be authorized by domestic law and nonetheless be arbitrary. The notion of 'arbitrariness' is not to be equated with 'against the law', but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality. For example, remand in custody on criminal charges must be reasonable and necessary in all the circumstances. Aside from judicially imposed sentences for a fixed period of time, the decision to keep a person in any form of detention is arbitrary if it is not

subject to periodic re-evaluation of the justification for continuing the detention.

36. Consistent with this approach, the Court held in *Gregory J Todd v Federal Republic of Nigeria* [ECW/CCJ/JUD/41/23] (para 56) and *Moses Abiodun v Federal Republic of Nigeria* [ECW/CCJ/JUD/31/25] (para 42) that for an arrest or detention to be lawful and non-arbitrary in terms of Article 6 of the African Charter and Article 9 of the ICCPR, such arrest or detention must, *inter alia*, comply with the following:

i. That anyone arrested must, at the time of the arrest, be informed of the reason of the arrest and be promptly informed of the charges against them.

ii. That a person arrested or detained on criminal charges must be promptly brought before a judge and if not tried within a reasonable time, they should be released with guarantees to reappear.

iii. That a person arrested or detained must have the right to institute legal proceedings for the determination of the lawfulness of the arrest or detention.

37. In this case, Applicant states that he was arrested on suspicions of having stolen a pistol from the armoury of the Togolese armed forces. The Court notes, that generally, a reasonable or probable cause that an individual has committed a criminal offence, is a lawful basis for an arrest or detention. However, a lawful arrest or detention may still be arbitrary such as when the individual is detained incommunicado, or held indefinitely without any formal charges or trial, or unreasonably denied bail.

38. The Court observes that the Applicant's claim that he was arrested on 28 July 2010 by the military authorities, detained incommunicado by the

National Intelligence Agency, transferred to the custody of the National Gendarmerie and eventually detained at the Lomé Civilian Prison is largely supported by the evidence he has submitted. First, the Court notes that Decision 11-0070/MDAC/CAB/11 of the Minister of Defence and Veterans, by which the Applicant was dismissed from the Togolese Army, placed him at the disposal of the National Gendarmerie. This is consistent with the Applicant's assertion that he was held in detention by the National Gendarmerie after he was taken out of the custody of the National Intelligence Agency.

39. Similarly, a Certificate of Detention dated 5 December 2023 and signed by Mr Kossi Woko Komlan, the Warden of the Lomé Civilian Prison, states that the Applicant, Piyabalo Kamana was detained in the said Prison from 5 August to 16 December 2011. This corroborates the Applicant's assertion that he was transferred to the Lomé Civilian Prison from the custody of the National Gendarmerie and spent the last part of his 16-month long detention without trial in the Lomé Civilian Prison until he was released on 16 December 2011.

40. Admittedly, the exhibits do not corroborate the Applicant's initial detention by the National Intelligence Agency after his arrest by the military authorities. However, the Court finds to be reasonably credible the Applicant's assertion that during his initial period in custody, he was detained incommunicado by the National Intelligence Agency. In such a context where the Applicant was detained without access to a lawyer or his family, and without being brought before any Court, it is reasonable to expect that the Applicant cannot provide direct evidence of such detention.

41. In the face of these credible and well supported assertions that the Applicant was detained in various facilities of the Respondent without any

formal charges or trial, it was for the Respondent to present its defence and provide contrary evidence that would rebut the claims of the Applicant. In the absence of such a defence from the Respondent, the Court finds the Applicant's claim that he was arrested and arbitrarily detained in violation of his right to liberty to be well founded. The Court accordingly enters judgment in default for the Applicant on this ground.

B. Alleged violation of the Applicant's right to fair trial including the presumption of innocence

(i) Submissions of the Applicant

42. The Applicant submits that under Article 7 of the African Charter, a person accused of a crime has a right to be heard by an impartial court and the right to be presumed innocent until proven guilty. Similarly, Article 14 of the ICCPR guarantees the rights of all persons to a fair and public hearing by a competent court and the right to be presumed innocent until proven guilty in accordance with the law.

43. The Applicant contends that in violation of his right to a fair trial including the right to be presumed innocent, he was arrested on a mere suspicion of stealing a weapon, detained for 16 months without a charge or trial before any court, and dismissed from the Togolese army.

(ii) Analysis of the Court

44. The Court begins by recalling Article 7(1) of the African Charter which provides:

> 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 as recognized and guaranteed by conventions, laws,

> regulations and customs in force; (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; (d) the right to be tried within a reasonable time by an impartial court or tribunal.

45. As evident from the text of the provision, "the right to a fair trial is a compendium of rights consisting of various substantive and procedural guarantees aimed at ensuring that the life, liberty, property, or other fundamental rights of the individual are not curtailed without a lawful, fair, and impartial legal process." (*Al-Hassan Fadia* v *Togolese Republic* [ECW/CCJ/JUD/17/24], para 79).

46. The elements of the right to fair trial alleged to have been breached in relation to the Applicant are the presumption of innocence and the right to be tried within a reasonable time by an impartial court or tribunal. In *Bationo Pelagie v Burkina Faso* [2012] CCJELR 303 (para. 32), the Court held that the presumption of innocence implies that a person is innocent so long as a court has not pronounced on his guilt and he has not been convicted of the offence he is charged with. The Court noted that the presumption of innocence prohibits all forms of conduct or actions, including statements, likely to create the impression that the person is guilty even before a court renders a verdict.

47. Regarding a trial within reasonable time, the Court notes that there is no standard period prescribed as the reasonable time within which a person accused of a crime must be tried by an impartial court or tribunal. What constitute a reasonable time is often assessed on a case-by-case basis. (See *Kessei Menveinoyou v Togolese Republic* [ECW/CCJ/JUD/34/24] para 44; and *Amozou Henri and Others v Cote d'Ivoire* [2004-2009] CCJELR 281, para 93).

48. However, the fact that there is no prescribed reasonable time is not a license for the state and its law enforcement or prosecution agencies to conduct criminal investigations indefinitely, or detain the individual for a prolonged period without any charges or trial. (See *Melville Roberts v The Gambia* [ECW/CCJ/JUD/43/24, para 46; *Gregory J Todd v Federal Republic of Nigeria* [ECW/CCJ/JUD/41/23] para 66; and *Valentine Ayika v Liberia* [2012] CCJELR 167, para 44).

49. In *Chief Ebrimah Manneh v. The Gambia* [2004-2009] CCJELR 181, the Applicant was arrested in June 2006 and held without a charge or trial for more than one year. The Court held that the arrest and detention of the Applicant for over a year without reasonable justification or a trial before a court violated his right to a trial within a reasonable time under Article 7(1) of the African Charter (see *Chief Ebrimah Manneh v. The Gambia*, paras 21-23). In fact, in *Badini Salfo v. Burkina Faso* [2012] CCJELR 281 (paras 39-41), the Court took a stricter approach. There, it held that the arrest and detention of the Applicant for over three months without a charge or trial, in breach of the Respondent's own laws, violated the Applicant's right to a trial within a reasonable time under Article 7(1)(d) of the African Charter.

50. In this case, the Court notes that the Applicant was arrested for allegedly stealing a weapon. He was detained by various security agencies of the Respondent and finally held in the Lomé Civilian Prison from August to December 2011. Overall, the Applicant was detained for about 16 months without a charge, trial or conviction. If the Respondent's military or law enforcement authorities were convinced that the Applicant had indeed committed a criminal offence, the course of action open to them was to

conduct proper investigations, formally charge him, and afford him the necessary time and facilities to defend himself against the charges. Instead, they simply locked him up from one detention facility to the other until they released him without any charge, trial or conviction.

51. The Court takes the view that the conduct of the Respondent's military and law enforcement agencies violated the Applicant's right to a fair trial before an impartial court within a reasonable time. By extension, it also violated the Applicant's right to be presumed innocent. By detaining him from one detention facility to the other without any charge, trial or conviction, they effectively treated him as though he was already guilty of the allegations levelled against him. His dismissal from the military reinforces this. For these reasons, the Court finds the Applicant's claim that the Respondent violated his right to fair trial including the right to be presumed innocent to be well founded and enters a default judgment in his favour.

C. Alleged violation of the Applicant's right to work

(i) Submissions of the Applicant

52. The Applicant states that following his arrest and detention without trial for allegedly stealing a weapon, he was removed from the control list of the Togolese Armed Forces, and thereby dismissed from the army without any disciplinary proceeding or conviction for any offence.

53. The Applicant contends that this dismissal which was effected through Decision No. 11-0070/MDAC/CAB/11 of the Minister of Defence and

Veterans, dated 25 February 2011, violates his right to employment contrary to Article 15 of the African Charter.

(ii) Analysis of the Court

54. The Court notes that the obligation imposed on State Parties under Article 15 of the African Charter includes taking appropriate measures to ensure that individuals are able to earn a living through work that they freely choose and accept. It extends to the enactment of regulations that guarantee equal pay for equal work, establishment of standards for healthy or satisfactory working conditions, and the promotion of an enabling environment for business creation, self-employment, or entrepreneurship. (See African Commission, *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights 2010*, para 59; and *Algom Resources Ltd v Sierra Leone* [ECW/CCJ/JUD/03/23], paras 111-112).

55. Thus, generally, the obligations imposed by Article 15 of the African Charter are primarily positive obligations. Nevertheless, the Court has had occasion to observe that the right to work also has "a negative obligation component which requires states to refrain from measures that may impair individuals' right to work or make a living." (*Algom Resources Ltd v Sierra Leone* [ECW/CCJ/JUD/03/23], para 112). Similarly, in its *General Comment No 18 (2005): The Right to Work (Article 6 of the ICESCR)*, the Committee on Economic, Social and Cultural Rights recognizes that the normative content of the right to work includes "the right not to be unfairly deprived of employment."

56. Consistent with this approach, the Court has held that the conduct of a State resulting in unfair or arbitrary dismissal of an individual from their employment violates the individual's right to work. In *Peter Uuter Dery v Republic of Ghana* [ECW/CCJ/JUD/17/19] (para 82), the Court noted that a violation of the right to work entails "severance from work which permanently deprives the employee of the job under [a] condition that is manifestly unfair."

57. Similarly, in *Aircraftwoman Beauty Igbobie Uzezi v Federal Republic of Nigeria* [ECW/CCJ/JUD/11/21] (para 136), the Court noted that while the right to work does not obligate the State to provide employment to all citizens, it requires that the State must not "unfairly deprive the employee of the job".

58. In this case, the Applicant was a corporal in the Togolese armed forces as evidenced by a copy of his service ID card which he annexed to the Application. He contends that because of the allegation that he had stolen a pistol from the armoury of the Togolese armed forces, he was dismissed from the army without any official charge, trial or guilty verdict. He presents Decision No. 11-0070/MDAC/CAB/11of the Minister of Defence and Veterans dated 25 February 2011 as evidence of the dismissal. The Court observes that indeed by the said Decision of the Minister, the Applicant was discharged from the army on "disciplinary grounds" and his name ordered to be removed from the list of the Togolese armed forces with effect from 1 March 2011.

59. Consistent with the Applicant's assertions, the Court notes that the Decision does not reference any specific charge which was levelled against the Applicant, nor does it indicate that he was subjected to any criminal or disciplinary proceedings for which he was convicted or found guilty.

Despite the opportunity presented for the Respondent to file a defence and offer any evidence it might have to rebut these claims, it failed or neglected to do so. In the circumstances, the Court is compelled to accept the Applicant's version of the story as corroborated by the Decision of the Minister of Defence and Veterans dated 25 February 2011. A summary dismissal without any formal charge, criminal or disciplinary proceedings for the Applicant to defend himself, or a conviction, is unfair in the circumstances.

60. Accordingly, the Court finds the Applicant's claim that his right to employment was violated by the Respondent to be well founded and enters a default judgment in his favour.

XII. REPARATIONS

61. Reparations may take the form of restitution, compensation, satisfaction, or a combination of these. In this case, the Applicant requests a total of 77,000,000 CFA francs as compensation for the violations he has suffered, including the salaries he would have earned for about 20 more years in the army if he had not been dismissed.

62. The Applicant's monthly salary was approximately 49,000 CFA francs, as evidenced by his payslips. Even if the Court were to accept his claim that he had 20 more years in the army, his total earnings for those 20 years, without any increment, would be 11,760,000 CFA francs. Assuming he earned a 5% annual salary increment over those 20 years, the total amount would come to 19,442,970 CFA francs. This would still be about 58 million CFA francs less than the 77 million CFA francs claimed by the Applicant. The Court also considers that awarding compensation for loss

of future earnings is inherently speculative. Several factors, including death, lawful termination, or resignation, could interrupt the flow of income that would have been earned from the job.

63. Given these factors, the Court considers it appropriate to exercise its discretion, in equity, to award what would be fair compensation in the circumstances of this case. For the loss of earnings, including future earnings, the Court deems it just and fair to award 7.4 million CFA francs, which is approximately the total amount the Applicant would have earned for the next 10 years if he had not been dismissed from the army and assuming he got a 5% annual increment. For the violations of the Applicant's rights to liberty and fair trial, including the presumption of innocence, the Court awards the Applicant 7.6 million CFA francs.

64. Accordingly, the Court awards a total of 15 million CFA francs for all the violations of the Applicant's fundamental human rights determined in this judgment.

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

XIII. COSTS

66. Pursuant to Article 66(2) of the Rules of the Court, the Court decides that the Respondent shall pay the costs of the Applicant as assessed by the Chief Registrar of the Court.

XIV. OPERATIVE CLAUSE

67. 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 over the Application.

On Admissibility

ii. *Finds* that the initiating Application is admissible.

On the Merits of the Application for Default Judgment

iii. *Declares* that the Respondent has violated the Applicant's right to liberty contrary to Article 6 of the African Charter and Article 9 of the ICCPR.

iv. *Declares* that the Respondent has violated the Applicant's right to a fair trial and presumption of innocence contrary to Article 7(1) of the African Charter.

v. *Declares* that the Respondent has violated the Applicant's right to work contrary to Article 15 of the African Charter.

On Reparations

vi. *Orders* that the Respondent shall pay to the Applicant 15 million CFA francs as compensation for the violations of his rights determined in this judgment.

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

On Costs

viii. *Decides*, pursuant to Article 66(2) of the Rules of the Court, that the Respondent shall pay the costs of the Applicant as assessed by the Chief Registrar of the Court.

Done at Conakry this 18th day of May 2026 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)