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

In the Matter of

THE INCORPORATED TRUSES OF THE SOCIO-ECONOMIC RIGHT & ACCOUNTABILITY (SERAP)

V.

FEDERAL REPUBLIC OF NIGERIA

Application No. ECW/CCJ/APP/03/25 - Judgment No. ECW/CCJ/JUD/14/26

JUDGMENT

ABUJA

On 15th of May 2026

APPLICATION No. ECW/CCJ/APP/03/25

JUDGMENT No. ECW/CCJ/JUD /14/26

BETWEEN

THE INCORPORATED TRUSES OF THE SOCIO-ECONOMIC RIGHT & ACCOUNTABILITY (SERAP) **APPLICANT**

AND

FEDERAL REPUBLIC OF NIGERIA **RESPONDENT**

COMPOSITION OF THE COURT PANEL

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES

- Presiding/Judge Rapporteur

Hon. Justice Sengu Mohamed KOROMA - Member

Hon. Justice Edward Amoako ASANTE - Member

ASSISTED BY

Dr. Yaouza Ouro-Sama - Chief Registrar

REPRESENTATION OF PARTIES:

Oluwadare Kolawole

Kehinde Oyewumi - Counsel for the Applicant

Maimuna Lami Shiru (Mrs) - Counsel for the Respondent

I. JUDGMENT

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

II. IDENTIFICATION OF PARTIES

2. The Applicant, Incorporated Trustees of the Socio-Economic Right & Accountability (SERAP), is a non-governmental human rights organization established in Nigeria.

3. The Respondent is the Federal Republic of Nigeria, a member of the Economic Community of West African States (ECOWAS) and a signatory to the African Charter on Human and Peoples' Rights, hereinafter referred to as the African Charter.

III. INTRODUCTION

4. In the instant case, the Applicant came to claim that Section 24 of the Cybercrime Act (as amended), in force in the Respondent State, violates the rights to freedom of expression and information. It maintained that the said legal provision is written in a vague and arbitrary manner, allowing excessively broad interpretations that are likely to be abused for illegitimate purposes. It also added that the Respondent, through its law enforcement agencies, including the Nigerian Police Force, has repeatedly used such provisions to suppress and violate the human rights of Nigerian citizens, namely human rights defenders, activists, bloggers, radio broadcasters and social media users.

IV. PROCEEDINGS BEFORE THE COURT

5. The originating application (doc.1), accompanied by three (7) Exhibits, was registered at the Registry of this Court on 9th January 2025.

6. The Respondent, on which the originating application was duly served, came on 25th March 2025 to request the extension of time to submit its defence and at the same time deposited is statement of defence (doc. 3), which were served on the Applicant on the same date.

7. The hearing of the parties was scheduled for 26 June 2025, and the representatives of the parties appeared and presented their oral submissions on the preliminary objection.

8. The case was adjourned for judgment on...., 2026.

V. THE APPLICANT'S CASE

Summary of Facts

9. The Applicant is a non-governmental human rights organization, duly registered under Nigerian laws, whose mission is to promote and protect the human rights of Nigerian citizens through strategic litigation, investigation, publication, advocacy and monitoring activities. Certified copies of the certificate of incorporation and the Applicant's constitution are attached and identified as "Exhibit 1".

10. The Cybercrime Act (Prohibition, Prevention, etc.), promulgated by the National Assembly of the Federal Republic of Nigeria in 2015, constituted the relevant legal framework in this dispute. The Applicant contested the compatibility of Article 24 of that law with Articles 9 of the African Charter on Human and Peoples' Rights and 19 of the International Covenant on Civil and Political Rights (ICCPR), in the framework of Case No. ECW/CCJAPP/09/19 before the ECOWAS Court of Justice. By judgment of 25 March 2022, that Court ruled that Section 24 of that law was arbitrary, vague and repressive, concluding that it

violated Articles 9 of the African Charter and 19 of the ICCPR. Consequently, it has determined that the Federal Republic of Nigeria should amend Section 24 of the Cybercrime Act of 2015 in accordance with its international obligations under Article 1 of the African Charter. A certified copy of that judgment is attached and marked as "Exhibit 2".

11. Following this decision, the State Respondent, through its National Assembly, proceeded in 2024 to amend the Cybercrime Law of 2015, promulgating Cybercrime (Prohibition, Prevention, etc.) (Amendment) Act, 2024. However, notwithstanding such legislative changes, Section 24 of the law, as amended, remains worded in vague and arbitrary terms, allowing its enforcement in a repressive manner by the Nigerian authorities.

12. According to the Applicant, the broad scope and vagueness of the provisions contained in Section 24 of the 2024 Cybercrime Act leave them open to abuse for illegitimate purposes. It further alleges that the Respondent State, through its law enforcement agencies, including the Nigerian Police Force, has repeatedly resorted to such provisions to suppress and violate the human rights of Nigerian citizens, particularly human rights defenders, activists, bloggers, journalists, radio broadcasters and social media users. It also maintains that these provisions continue to be used to threaten and restrict the exercise of rights to freedom of expression and information, among other fundamental rights.

13. The Applicant adds that since the legislative amendment of 2024, Federal and State authorities have consistently applied the Cybercrime Act to harass, intimidate, arbitrarily arrest and institute unjustified judicial proceedings against individuals who peacefully exercise their human rights, including the expression of critical opinions regarding the Nigerian Government and its institutions.

14. In particular, it avers that the amended Section 24, which typifies the crime of "cyberstalking", has been repeatedly invoked by authorities to intimidate, threaten and prosecute Nigerian citizens for the mere peaceful exercise of their rights, both in and outside the digital space. From the Applicant's perspective, the arbitrary and vaguely formulated provisions concerning this crime have allowed an excessively broad interpretation and application, including factual and truthful reports spread by human rights defenders, activists, journalists, radio broadcasters, social media users and bloggers. It argues that this situation has generated a significant deterrent effect on the exercise of the rights to freedom of expression, information and freedom of the media, as well as on other related human rights.

15. The amended provisions of Section 24 of the Cybercrime Act 2024, by defining the offence of cyberstalking in broad terms that are open to broad interpretation, provide that:

"1. Any person who knowingly or intentionally sends a message or others matter by means of computer system or network that:

a) be pornographic in nature; or

b) he knows to be false, for the purpose of causing a breakdown of law and order, posing a threat to life or causing such message to be sent.

Commits an offence under this Act and is liable on conviction to a fine not more of N7,000,000.00 or imprisonment for a term of not more than 3 years or both.

2. A Person who knowingly or intentionally transmits or causes the transmission of any communication through a Computer System or Network:

a) *to bully, threaten or harass another person, where such communication places another person in fear of death, violence or bodily harm to another person;*

b) *(b) containing any threat to kidnap any person or any threat to harm the person of another, any demand or request for a ransom for the release of any kidnapped person, to extort from any person, firm, association or corporation, any money or other thing of value, or*

c) *(c) containing any threat to harm the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, to extort from any person, firm, association, or corporation, any money or other thing of value,*

commits an offence under this Act and is liable on conviction:

i) *(i) in the case of paragraphs (a) and (b) of this subsection, to imprisonment for a term of 10 years or a minimum fine of N25,000,000.00; and*

ii) *(ii) in the case of paragraph (c) of this subsection, to imprisonment of up to 5 years or minimum fine of N15,000,000.00.*

3. *(3) A Court sentencing or otherwise dealing with a Person Convicted of an offence under subsections (1) and (2) may also make an order, which may, for the purpose of protecting the Victim or Victims of the offence, or any other Person mentioned in the order, from further conduct which—*

a) *(a) amounts harassment; or*

b) *(b) will cause fear of violence, death or bodily harm, prohibit the Respondent from doing anything described or specified in the order.*

4. *(4) A Respondent who does anything which he is prohibited from doing by an order under this section, commits an offence and is liable on conviction to a fine of not more than N 10,000,000.00 or imprisonment for a term of not more than 3 years or both.*
5. *(5) The order made subsection (3) of this section may have effect for a specified period or until further order, and the Respondent or any other Person mentioned in the order, may apply to the Court which made the order for it to be varied or discharged a further order.*
6. *(6) Notwithstanding the powers of the court under subsections (3) and (5), the court may make an interim order for the protection of victim(s) from further exposure to the alleged offences.*

16. Notwithstanding the extent of the provisions contained in Section 24 of the Cybercrime Law (as amended in 2024), the said legislation continues to define the concept of "cyberstalking" in Section 58, describing it as "*a course of conduct directed at a specific person that would cause a reasonable person to feel fear.*"
17. The provisions of the Cybercrime Act of 2024, including Section 24, typifies a number of illicit acts excessively widely and provide for severe sanctions that could negatively affect the exercise of human rights and have produced a significant deterrent effect on freedom of expression in Nigeria. The Applicant maintains that the Respondent State and its law enforcement agencies, in several States of the Federation, have applied such vague and widely formulated provisions to sanction critical opinions, especially in the digital space.
18. According to the Applicant, content published online has been described as "offensive", "obstructive", "insulting" or "annoying", with legal consequences under the amended provisions of Section 24 of the Cybercrime Act of 2024, even when the reported facts are true and

verifiable. It adds that news previously disclosed by traditional, printed or electronic media, and that did not raise any government censorship, became the subject of persecution when retransmitted or republished on digital platforms.

19. The Applicant also understands that Section 24 of the said Act represents an excessively punitive approach to combating harassment and persecution, not including adequate safeguards against its abuse, in particular in the context of the peaceful and legitimate exercise of freedom of expression and investigative journalism. He adds that the phrase "causing a breakdown of law and order" lacks a clear and precise definition, which leaves room for arbitrary interpretations that could penalise legitimate expressions of opinion and open the door to abusive practices by the authorities.

20. According to Freedom House Reports for Nigeria, published in 2023 and 2024, freedom of expression in the digital environment has seen a significant decline, as a result of an unprecedented standard of arbitrary arrests and arrests of bloggers after the promulgation and subsequent amendment of the Cybercrime Law in 2024. Most of these cases remain pending in police stations and courts across the country. This report, available at https://freedomhouse.org/country/nigeria/freedom-net/2024, it is gathered to t the documents and marked as "Exhibit 3".

21. The Applicant also invokes several recent examples of allegedly abusive application of the amended provisions of Section 24 of the Cybercrime Act in media cases of harassment, intimidation, imprisonment, illegal detention and arbitrary prosecution of journalists, bloggers, media professionals, social media users, human rights defenders and activists in Nigeria. Among these cases, one that stands out in particular is the incident that took place on 16 July 2024, when the International Press Institute Global Network welcomed the acquittal of the Nigerian

journalist Agba Jalingo, of the *Cross River Watch* newspaper by the Federal Supreme Court in Abuja, in the context of a case for alleged cyber persecution 2024. The corresponding report, entitled "IPI welcomes acquittal of Nigerian journalist on cybercrime charges", available at https://ipi.media/ipi-welcomes-acquittal-of-nigerian-journalist-on-cybercrime-charges/, and attached as "Exhibit 4".

22. In October 2024, *The Guardian* newspaper, in an article entitled "Police again accuses four bloggers of new charges for alleged cyberstalking," reported another episode of alleged abuse of Section 24 provisions by law enforcement authorities. A printed version of that article is attached to the documents and identified as "Exhibit 5".

23. Likewise, on December 19, 2024, *the Premium Times* published an article entitled "Police arrest famous singer for allegedly cyberstalking, harassing Benin crown prince". The corresponding report, available at https://www.premiumtimesng.com/entertainment/music/694171-police-arrest-famous-singer-for-allegedly-cyberstalking-harassing-benin-crown-prince.html, is attached as "Exhibit 6".

24. Also, on December 6, 2024, *The Cable* reported the filing of new cybercrime charges against Dele Farotimi, in an article available at https://www.thecable.ng/police-file-fresh-cybercrime-charges-against-dele-farotimi/, which is also attach and marked as "Exhibit 7".

25. The Applicant maintains that the repeated use of Section 24 of the Cybercrime Act to persecute individuals deemed critical of the Government creates a climate of widespread fear among its officials, members and supporters, who fear they will be subjected to harassment, intimidation or unlawful accusations under that provision, in particular, taking into account the nature of its activity in the defence of human rights, including the promotion of the rights to freedom of expression and information.

26. In this context, the Applicant contends that the environment resulting from the application of the aforementioned legislation significantly undermines its ability to effectively fulfil its mandate to protect human rights in Nigeria. It considers that this situation constitutes a serious threat and a violation of the fundamental rights of its staff, as well as the rights of a large number of Nigerian citizens, in particular the rights to freedom of expression and information, enshrined in Article 9 of the African Charter on Human and Peoples' Rights and Article 19 of the International Covenant on Civil and Political Rights, among other international human rights instruments to which Nigeria is a State Party.

b) Pleas in Law

27.21. The Applicant cited the following legal instruments:

i. Section 24 of the Cybercrime Act (Prohibition, Prevention, ETC) (amendment) of 2024;

ii. Article 66 of the ECOWAS Revised Treaty;

iii. ii. Articles 1, 2 and 9 of the African Charter;

iv. Articles 19 (1 and 2) of the ICCPR;

V. Article 32 of the Supplementary Act (A/SA.1/01/10) on the Protection of Personal Data in ECOWAS;

vi. Articles 1, 6, 7, 10, 11 and 12 of the Supplementary Act (A/SA.1/6/10) on Freedom of Expression and the Right to Information in West Africa.

28. The Applicants also relied on the case law of this Court.

c) Reliefs Sought

29. The Applicant concludes by seeking from the Court:

i. A DECLARATION that the provisions of the Cybercrime (Prevention, Prohibition, etc.) Act 2024 (Amendment) are wholly inconsistent and incompatible with international human rights standards and infringe upon the rights to freedom of expression, information and opinion, and freedom of the media guaranteed by the African Charter and the ICCPR and other relevant human rights treaties to which Nigeria is a State Party.

ii. A DECLARATION that the actions of the Respondent State and its law enforcement agencies, as well as the practices adopted by various States of the Federal Republic of Nigeria in the arbitrary application and enforcement of Section 24 of the Cybercrime (Prohibition, Prevention, etc.) Act, as amended in 2024, by harassing, intimidating, detaining, arresting and unjustly prosecuting journalists, bloggers, social media users and other Nigerian citizens, constitute a threat to and/or a violation of the rights to freedom of expression, information, opinion, privacy and freedom of the media, enshrined in Articles 6, 8, 9 and 24 of the African Charter on Human and Peoples' Rights, as well as in Articles 7, 9, 17 and 19 of the International Covenant on Civil and Political Rights and in other relevant international human rights instruments to which Nigeria is a State Party.

iii. AN ORDER instructing the Respondent to immediately revoke and/or amend Section 24 of the Cybercrime Act (Prohibition, Prevention, ETC) (amendment) of 2024, in accordance with Nigerian obligations under international human rights law, in

particular Article 1 of the African Charter and other relevant human rights treaties to which Nigeria is a party.

iv. ANY OTHER ORDERS which the Court deems appropriate under the circumstances of the case.

VI. THE RESPONDENT'S CASE

a) Summary of Facts

30. The Respondent expressly challenges any and all claims contained in the Originating Application.

31. With regard to paragraph (ii) of the account of the facts presented by the Applicant, the Respondent denies its content and further maintains that the Applicant is not registered as a non-governmental organisation in Nigeria, because it does not exist in the Nigerian legal system, specific legislation regulating or providing for the registration of entities under the designation of non-governmental organisations.

32. The Respondent accepts the content of paragraph (iii) of the statement of the facts, clarifying, however, that the Cybercrime Law (Prohibition, Prevention, etc.) was promulgated by the National Assembly of the Federal Republic of Nigeria in 2015 and subsequently amended in 2024.

33. As regards paragraph (IV), the Respondent alleges that the judgment referred to therein was delivered wrongly, stating that the Court did not properly consider relevant legal principles applicable to the protection of fundamental human rights, both internationally and at the national level, in particular the principles of necessity and proportionality, in the context of pursuing legitimate objectives such as public order and national security. It also adds that the Court has no competence to interpret the internal legislation of the Member States with regard to the application of fundamental rights.

34. The Respondent also disputes the content of paragraph (vi) of the account of the facts, stating, in its defence, that the provisions of article 24 of the Cybercrime Law (Prohibition, Prevention, etc.) are clear, precise and unambiguous. It maintains that such provisions are written in sufficiently understandable terms, leaving no room for uncertainty as to the required or prohibited behavior, and therefore fully applicable and in no way vague.

35. With regard to paragraph (VII), the Respondent denies the allegations made and states that the law enforcement authorities, under its control, have acted in accordance with the legal provisions in the exercise of their duties, including those arising from Article 24 of the Cybercrime Law. It adds that if any agent exceeds the limits of his/her competences, there are disciplinary procedures to sanction such conduct.

36. The Respondent also challenges the content of paragraphs (VIII) and (IX), arguing that it does not correspond to the truth that security forces agents have used the criminalization of "cyberstalking" to intimidate citizens. It also states that the concept of "cyberstalking" is clear and unequivocal within the framework of applicable legislation.

37. With regard to paragraph (x), the Respondent denies the allegations contained therein, arguing that any suspect detained under Article 24 of the Cybercrime Act is subject to investigation and subsequently brought to court, where s/he is guaranteed the right of defence. It therefore considers that such a procedure does not have any deterrent effect on the disclosure of true factual reports in the exercise of freedom of expression.

38. The Respondent also disputes paragraph (xi), reiterating that the provisions of Article 58 of the Cybercrime Law are clear and unequivocal. As regards paragraph (xii), it maintains that Article 24 does not contain overly broad offences nor does it provide for disproportionate

penalties that could threaten human rights or have a restraining effect on freedom of expression in Nigeria.

39. As far as paragraph (XIII) is concerned, the Respondent states that the report cited does not correspond to the truth and lacks sufficient empirical basis or credibility to sustain the alleged facts. As for paragraph (XIV), it maintains that the cases referred to demonstrate, on the contrary, that the competent authorities have observed due legal proceedings whenever they proceed to the arrest of suspects for alleged violations of the Cybercrime Law, submitting them later to the courts.

40. In relation to paragraph (XV), the Respondent denies any harassment practice within the scope of the Cybercrime Law, stating that the Applicant's employees have no reason for fear, provided they act in accordance with the law.

41. Finally, with regard to paragraph (XVI), the Respondent denies having created any environment likely to compromise the Applicant's ability to effectively exercise its human rights activities in Nigeria. It also maintains that the protection of fundamental human rights is not absolute and is subject to legitimate limitations. Thus, when the exercise of these rights conflicts with legal provisions validly enacted by the National Assembly, the consequences arising from the application of these rules cannot be automatically qualified as violations of fundamental human rights.

b) Pleas in Law

42.21. The Applicant cited the following legal provisions:

i. Section 24 of the Cybercrime Act (Prohibition, Prevention, ETC) (amendment) of 2024;

ii. Article 9 of the African Charter states that:

ii. Article 19 of the ICCPR.

43. The Respondent further relied on international case law and the case law of this Court.

b) Reliefs Sought

44. 50 - The Respondent Concludes by seeking from the Court to declare:

(i) the Applicant's claim and statement of facts admissible in response to the Respondent's application and, consequently, that this Court dismiss the present action as lacking jurisdiction, without merit and without grounds against the Respondent.

VII. ON THE JURISDICTION

45. The Court takes note that the Respondent alleged the lack of jurisdiction of this Court to examine the application and its admissibility.

Analysis of the Court

46. Before addressing the parties' submissions on the Preliminary Objection raised by the Respondent, the Court must first examine whether the Respondent's objection complies with the Court's Rules.

47. Article 87 of the Rules of Court on preliminary objections before the Court provides as follows:

"1. A party seeking from the Court a decision on a preliminary objection or other preliminary plea not going to the substance of the case shall make the application by a separate document.

2. The application must state the pleas of fact and law relied on and the form of order sought by the applicant and any supporting documents must be attached to it."

48. The above provision implies that any preliminary objection before the Court must be presented in a separate application from the document in which the substantive matters are addressed. The aim of this requirement is to enable the Court to assess and take a separate decision on this matter.

49. The Court notes that the preliminary objection presented by the Respondent was not presented in an autonomous procedural motion, as required by Article 87(1) of the applicable Rules of Procedure. On the contrary, this objection was inserted in the body of the statement of defence itself.

50. It should be stressed that the Court is bound by the provisions of its Rules of Procedure, which lays down the rules to be observed by the litigants as to the way in which the proceedings are presented and the procedures to be followed. Therefore, an application that does not comply with the rules risks being rejected. (See *MAHAMANE OUSMANE v. THE REPUBLIC OF NIGER*, Judgment No: ECW/CCJ/JUD/26/22, para. 47).

51. Indeed, the provisions set out in the Protocol and the Rules of the Court are clear and unambiguous and must be strictly observed by the parties appearing before this court. (See VISÃO KAM-JAY INVESTMENT LIMITED v. CHAIRMAN OF THE ECOWAS COMMISSION, ECW/CCJ/JUD/26/22, p. 9; GBELA GUELALO AND 3 OTHERS v. STATE OF CÔTE D'IVOIRE, ECW/CCJ/JUD/18/25; MAMADOU ALPHA BAH v. REPUBLIC OF GUINEA, ECW/CCJ/JUD/08/26, pp. 14–17).

52. Therefore, since the Respondent has not complied with the Rules of the Court regarding the manner in which a preliminary objection must be

submitted, the Court decides that it will not proceed to examine the Respondent's preliminary objection. Accordingly, the preliminary objection raised by the Respondent is dismissed.

53. In the instant case, the Applicant's allegations are essentially based on claims of violations of her human rights, in contravention of the relevant provisions of the African Charter on Human and Peoples' Rights and other international instruments for the protection of human rights, namely the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR).

54. It is true that the Court does not have the power to carry out an abstract review of the legality of Member States' laws. However, contrary to the Respondent's allegations, this Court has jurisdiction to examine such laws whenever allegations of human rights violations are made in relation to them. (See, inter alia, *KHALIFA ABABACAR SALL AND OTHERS v. THE STATE OF SENEGAL,* ECW/CCJ/JUD/34/25, p. 18; *FEDERATION OF AFRICAN JOURNALISTS AND OTHERS v. REPUBLIC OF THE GAMBIA*, ECW/CCJ/JUD/04/18, pp. 31–32).

55. In the instant case, the Applicant alleges, firstly, that Section 24 of the Cybercrime Act, as amended in 2024 and adopted by the Respondent State, is inconsistent with the provisions of Articles 1, 2 and 9 of the African Charter on Human and Peoples' Rights; Article 19(1) and (2) of the ICCPR; Article 32 of the Supplementary Act (A/SA.1/01/10) on the Protection of Personal Data in ECOWAS; as well as Articles 1, 6, 7, 10, 11 and 12 of the Supplementary Act (A/SA.1/6/10) on Freedom of Expression and the Right to Information in West Africa, by imposing undue restrictions on the right to freedom of expression. On the other hand, it maintains that the interpretation and application of these provisions by the Respondent State have been made with the aim of intimidating, harassing, detaining and subjecting its members, associates

and collaborators to ill-treatment, in violation of the rights to freedom of expression guaranteed by Articles 1 and 9 of the African Charter and Article 19 of the ICCPR.

56. Accordingly, the present case falls within the jurisdiction conferred on this Court by Article 9(4) of the Supplementary Act A/SA.1/12/25 concerning the Court, which provides that "the Court shall have jurisdiction to hear cases of human rights violations occurring in any Member State". (See *ALSO SERAP C. FEDERAL REPUBLIC OF NIGERIA AND OTHERS*, ECW/CCJ/JUD/16/14, § 72, and *KARIM MEISSA WADE C. REPUBLIC OF SENEGAL*, ECW/CCJ/JUD/19/13, §)72.

VIII. ADMISSIBILITY

57. In terms of access to the Court, the Article 10 of the same Act establishes that "*Can access the Court (...) d) Anyone who is a victim of human rights violations. The submission of application for which shall:*

i) must not be anonymous;

ii) *will only be submitted to the Community Court of Justice if it has not been submitted to another Competent International Court (...)"*

58. That is, to justify an action regarding the violation of human rights, it is necessary that the applicant is a victim, and that the Respondent State is responsible for the alleged violations. (See, inter alia, RULING No. ECW/CCJ/RUL/ 03/14, *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC Rights & ACCOUNTABILITY Project (SERAP) V. FEDERAL REPUBLIC OF NIGERIA & ANOR and* Judgment No. ECW/CCJ/JUD/06/19 in the case, *REV. FR. SOLOMON MFA & 11 ORS V. FEDERAL REPUBLIC OF NIGERIA.*

59. Therefore, the essential criterion for human rights claims is that the applicant is a victim of the violation of human rights, while it is up to him/her to prove his/her *locus standi* in the case. (See I*NCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA v. REPUBLIC OF NIGERIA* ECW/CCJ/JUD/15/24, Ruling No. ECW/CCJ/RUL/05/11, delivered in the case of *PRIVATE ALIMU AKEEM v. FEDERAL REPUBLIC OF NIGERIA* and Ruling No. ECW/CCJ/RUL/07/12, delivered in the case of *ALHAJI MUHAMMED IBRAHIM HASSAN v. GOVERNOR OF GOMBE STATE & FEDERAL GOVERNMENT OF NIGERIA*).

On the Locus Standi of the Applicants

60. Like other international courts, this Court has adopted a flexible and broad approach to the concept of *locus standi*, allowing persons who have not been directly affected by an alleged violation to bring a case before the Court, acting on behalf of the victims.

61. This is confirmed in the judgment in the case of *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA v. FEDERAL REPUBLIC OF NIGERIA*, ECW/CCJ/JUD/15/24, which states that when a non-governmental organisation (NGO) brings a case of human rights violations before the Court, the question of admissibility must be considered before the merits of the case are examined. In such cases, admissibility is examined in the light of two essential criteria: (i) the legal existence of the NGO and (ii) the nature of the action, namely whether it is a representative action or *an actio popularis.*

62. With regard to legal existence, this Court has consistently stated that an NGO duly constituted and registered under the national legislation of an ECOWAS Member State may bring an action for human rights violations.

63. As in the case of *GLORY OKOLIE v. REPUBLIC DA NIGERIA* ECW/CCJ/JUD/38/24, this Court held that the registration of an NGO is

"*a condition of legal existence, of recognition by the State... and confers legal capacity on the legal person to sue and be sued*" (paragraphs 64–65). Unlike in that case, where the claims were dismissed for lack of documentary evidence, in the instant case the Applicant submitted its Certificate of Incorporation and its Articles of Association (Annex 1) to the Court, thereby demonstrating its legal standing and the fact that its corporate purpose is consistent with the defence of human rights.

64. With regard to the nature of the action, it is important to determine whether the Applicant is acting on behalf of specific interests or in the context of *an actio popularis*. In this regard, this Court has repeatedly stated that an NGO can bring action on behalf of the victims without the need to submit a specific mandate, whenever the action is based on a common public interest.

65. This view was reaffirmed in the case of *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) v. THE FEDERAL REPUBLIC OF NIGERIA AND OTHERS*, in which the Court held that a duly constituted NGO may bring applications of human rights violations even when the victims constitute a broad group of persons or entire communities, and no specific mandate is required (§ 61).

66. Thus, in the context of an *actio popularis*, the Applicant must merely demonstrate that there is a public interest worthy of protection which has allegedly been infringed, that the matter is justiciable and that the action is not brought for the Applicant's own benefit. In these circumstances, individual identification of victims is not an essential requirement (see *REV. FR. SOLOMON MFA & 11 ORS V. FEDERAL REPUBLIC OF NIGERIA.*, para. 63).

67. In the instant case, the Applicant, as an NGO duly incorporated under the laws of the Federal Republic of Nigeria (see Annex 1; see also

HOMELAND STUDY GROUP FOUNDATION & 30 OTHERS v. REPUBLIC OF GHANA, ECW/CCJ/JUD/32/25, §§ 76–78), acts in defence of the interests of its members, associates and collaborators, who are alleged victims of human rights violations; it is evident that the action is based on a public interest and does not seek to obtain private benefits.

68. It should also be emphasised that, in public interest disputes, the Applicant does not have to demonstrate the existence of direct personal harm or a specific individual interest in order to be recognised as having standing to bring proceedings.

69. This gradual evolution of the concept of *locus standi* was also recognised by this Court in the case of *MEDIA FOUNDATION FOR WEST AFRICA v. REPUBLIC OF THE GAMBIA*, ECW/CCJ/APP/RUL/02/12, in which it was stated that the restrictive interpretation of standing has been replaced by a broader approach, particularly in the field of human rights, and that the Applicant is not required to prove that he or she has directly suffered a violation of a legal right.

70. In the instant case, it is clear from an examination of the statement of claim that the action is based on the defence of the public interest, and none of the claims made are intended to secure advantages for the Applicant's own benefit.

71. Furthermore, there is nothing in the case file to suggest that the same matter is pending before another international court.

72. Accordingly, given that the Applicant is a duly constituted non-governmental organisation acting in the public interest, and on the basis of the alleged violation of human rights attributed to the Respondent State, the Court, pursuant to Article 10(4) of the Supplementary Act A/SA.1/12/25 concerning the Court, and in accordance with its established case law, declares the instant application admissible.

IX. MERITS

73. The Court will now examine the human right allegedly violated by the Respondent State, taking into account the questions as put forth by the Applicant for determination of the Court.

a) The alleged violation of the right to freedom of expression

Applicant's Arguments

74. The Applicant claims that Section 24 of the Cybercrime Act, as amended in 2024, remains drafted in vague and arbitrary terms, lending itself to subjective interpretations and repressive use by the Nigerian authorities. It claims that the broad scope of the provisions contained therein makes them susceptible to abuse for illegitimate purposes, and that the Respondent, through its law enforcement agencies, including the Nigerian Police Force, repeatedly resorted to such provisions to repress and violate the human rights of Nigerian citizens, notably human rights defenders, activists, bloggers, journalists, radio broadcasters and social media users.

75. It further states that, since the amendment of the said law in 2024, the Respondent and its authorities, at both federal and state levels, have systematically applied its provisions to harass, intimidate, arbitrarily detain and bring unjustified legal proceedings against individuals who peacefully exercise their fundamental rights, including the expression of critical views regarding the Nigerian Government, its institutions and its agents.

76. The Applicant adds that the provisions relating to the offence of cyberstalking, as set out in the Cybercrime Act, are formulated in an arbitrary and vague manner, allowing for an excessively broad interpretation and application that even covers factual and truthful reports published by human rights defenders, activists, journalists, broadcasters, social media users and bloggers. It maintains that this situation has had a significant chilling effect on the exercise of the rights to freedom of expression, freedom of information and media freedom, as well as on other related human rights.

77. Finally, the Applicant notes that, despite the scope of the provisions contained in Section 24, the Act continues to define the concept of 'cyberbullying' in Section 58 in vague terms, describing it as "*a course of conduct directed at a specific person that would cause a reasonable person to feel fear.*"

Respondent's Arguments

78. For its part, the Respondent argued, in particular, that the terms of Article 24 of the Cybercrime (Prevention, Prohibition, etc.) Act are clear and unambiguous, being drafted in a precise and easily understandable language, and do not give rise to any uncertainty as to the conduct required or prohibited.

79. It also stated that the law enforcement authorities under its supervision have acted in strict compliance with the legal provisions in the performance of their duties, including in fulfilling the obligations arising from the aforementioned Article 24. It adds that if any agent exceeds the limits of his/her competences, there are disciplinary procedures to sanction such conduct.

80. With regard to the concept of "cyberstalking", the Respondent argued that its meaning is clear and unambiguous, emphasising that any suspect

detained under the aforementioned Article 24 is subject to investigation and subsequently charged before the competent courts, where they are guaranteed the right to a defence. It therefore maintains that the application of this provision has no deterrent effect on the dissemination of true factual accounts in the exercise of freedom of expression.

81. Finally, the Respondent stated that it does not engage in any form of harassment in the application of the provisions of the Cybercrime Act (Prevention, Prohibition, etc.), considering that the Claimant's employees have no cause for concern, provided they act in accordance with the law.

Analysis of the Court

82. Freedom of expression is guaranteed by Article 19 of the Universal Declaration of Human Rights (1948) (DUDH), which provides:

> "1. *Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions with- out interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*"

83. Article 19 of the ICCPR also establishes that:

> "*1. Everyone shall have the right to hold opinions without interference.*
>
> *2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regard less of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
>
> *3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be*

subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

84. In turn, the Article 9 of the ACHPR, provides that:

"*1. Every individual shall have the right to receive information.*

2. Every individual shall have the right to express and disseminate his opinions within the law."

85. As this Court emphasised in the case of *FEDERATION OF AFRICAN JOURNALISTS AND OTHERS v. REPUBLIC OF THE GAMBIA*, "*freedom of expression is a fundamental human right, the full exercise of which is essential to the realisation of individual freedoms and the development of a democratic society. It is not only an indispensable pillar of democracy, but also a fundamental element for the flourishing of an active and plural civil society.*"

86. Also, in reference to this right, the African Court in the case, *INGABIRE VICTOIRE UMUHOZA V. REPUBLIC OF RWANDA,* highlighted that: "*The right to freedom of expression is one of the fundamental rights protected by international human rights law, whose respect is crucial and indispensable for the free development of the human person and for the construction of a democratic society. These right covers, among other things, the freedom to express, communicate or disseminate information, ideas or opinions of any kind, in any form and through any means, either at national or international level.*

The right to freedom of expression implies that States ensure their protection against interference, regardless of whether they come from

private individuals or government agents. Although freedom of expression is as essential as other rights for self-realization of individuals in a democratic society, it is a right that cannot be exercised in an absolute or without limits." Application No. 0003/2014, para. 132 and 133).

87. The Committee on Human Rights, in its Commentary No. 34 on Article 19, on Freedom of Opinion and Expression, noted that Article 19(2) requires that *"States Parties should guarantee the right to freedom of expression, including the right to seek, receive and disseminate information and ideas of all nature, without regard to borders. This right covers the expression and reception of communications in any form relating to ideas and opinions likely to be transmitted to third parties..."* (para. 11); and paragraph 2 states that *"protects all forms of expression, as well as the means through which they are spread."* And that the exercise of the right to freedom of expression entails specific duties and responsibilities; consequently, "*only two categories of restrictions to this right are admitted: (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order (ordre public), or of public health or morals..*" (para. 21).

88. It also stressed that article 19 (3) lays down the specific conditions under which restrictions should be imposed. That is: "*Restrictions shall be "provided for in the law"; they may only be imposed on the basis of one of the grounds laid down in subparagraphs (a) and (b) of paragraph 3 and shall comply with the strict criteria of necessity and proportionality*". (para. 22)

89. It highlighted, however, that when the State Party imposes certain restrictions on the exercise of freedom of expression, those restrictions should not jeopardize the right itself. (para. 21)

90. In turn, the rule of Article 9 of the African Charter, with regard to freedom of expression, contains a clause which refers the exercise of that right to the legal system of States Parties, when establishing that the exercise of the right shall take place "*according to the law.*"

91. From the analysis combined with the rule of Article 27 (2) of the African Charter, it follows that the right to freedom of opinion and expression should be exercised within the framework of the law and due respect for the rights of others, collective security, morals and common interest.

92. This means that it is up to the Member State to define the conditions for the exercise of the right to freedom of expression, which is not absolute.

93. As the Committee on Human Rights said, "*For the purposes of paragraph 3, a provision must, in order to be classified as a 'law', be formulated with sufficient precision to enable individuals to regulate their conduct accordingly and must also be accessible to the public. The law cannot confer unlimited discretionary power on those entrusted with its enforcement with regard to the restriction of freedom of expression. On the contrary, it must provide clear and sufficient guidance to the competent authorities, allowing them to determine which forms of expression can be legitimately restricted and which ones cannot be.*" (paragraph 25)

94. Furthermore, the African Commission, in the Declaration of Principles on Freedom of Expression and Access to Information in Africa, adopted at its 65th Ordinary Session, held from 21 October to 10 November 2019, in Banjul, The Gambia, and which replaced the previous Declaration of 2002, established, as Principle 9, the conditions for a justifiable limitation on the exercise of the right to freedom of expression and access to information, prescribing the following:

"1. *States may only limit the exercise of the rights to freedom of expression and access to information, if the limitation: a) is prescribed by law;*

b) serves a legitimate aim; and pursue a legitimate goal; and is a necessary and proportionate means to achieve the stated aim in a democratic society.

2. *States shall ensure that any law limiting the rights to freedom of expression and access to information:*
   a) is clear, precise, accessible and foreseeable;
   b) is overseen by an independent body in a manner that is not arbitrary or discriminatory; and
   c) effectively safeguards against abuse including through the provision of a right of appeal to independent and impartial courts.
3. *A limitation shall serve a legitimate aim where the objective of the limitation is:*
   a) to preserve respect for the rights or reputations of others; or
   b) to protect national security, public order or public health.
4. *To be necessary and proportionate, the limitation shall:*
   a. originate from a pressing and substantial need that is relevant and sufficient;
   b. have a direct and immediate connection to the expression and disclosure of information, and be the least restrictive means of achieving the stated aim; and
   c. be such that the benefit of protecting the stated interest outweighs the harm to the expression and disclosure of information, including with respect to the sanctions authorised.

95. As stated by the African Court, in this case, Lohé Issa Konaté v. Burkina Faso:

"Though in the African Charter, the grounds of limitation to freedom of expression are not expressly provided as in other international and regional human rights treaties, the phrase "within the law", under Article 9 (2) provides a leeway to cautiously fit in legitimate and justifiable individual, collective and national interests as grounds of limitation. Here the phrase "within the law" must be interpreted in reference to international norms which can provide grounds of limitation on freedom of expression"

96. Furthermore, as stated by the European Court of Human Rights, in the *BREYER V. GERMANY* case, that: *"The term "in accordance with the law" does not only mean that the measure in question should have some basis in domestic law, but also that the law should be accessible to the person concerned and foreseeable as to its effects."*

97. As set out by this Court in the *JUDGMENT INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA v. FEDERAL REPUBLIC OF NIGERIA* (Judgment No. ECW/CCJ/JUD/15/24), freedom of expression is a fundamental right that is essential to human fulfilment. In paragraph 140 of that decision, the Court highlighted that: *"Without the right to freedom of expression, the most basic of our freedoms would be denied, such as the right to think and share our opinions with others, the right to freedom of association, assembly, conscience and participation in public affairs, education or health, etc., and is therefore a fundamental condition for democracy."*

98. Therefore, it follows from the above that a "Law", in order not to be in contravention of human rights, should not be arbitrary, should be predictable, reasonable, proportionate and pursue legitimate objectives.

99. In the instant case, the Applicant alleges that the provisions of Section 24 of the Cybercrime (Prohibition and Prevention, etc.) as amended in 2024,

violate the right to freedom of expression enshrined in the aforementioned articles, since the said law is vaguely drafted and arbitrary; that the provisions of the said law are defined so broadly that they are open to abuse for illegitimate purposes; that the Respondent, through its law enforcement agencies, including the Nigerian Police Force, has persistently used those provisions to suppress and violate the human rights of Nigerians, including human rights defenders, activists, bloggers, journalists, radio broadcasters, and social media users.

100. In its defence, the Respondent challenged the alleged facts and submitted the Applicant to the strict burden of proof thereof. It also maintained that the provisions of Article 24 of the Cybercrime (Prevention, Prohibition, etc.) Act are clear and contain no ambiguity; that it is not true that its agents have used the charge of cyberstalking to intimidate citizens; and that the concept of cyberstalking is clear and unambiguous. It added that any suspect detained under that article is subject to investigation and subsequently charged before the competent courts, where they are guaranteed the right to a defence; therefore, the application of the law has no deterrent effect on the dissemination of true factual accounts in the exercise of freedom of expression. Finally, it asserted that the provisions of Article 58 of the said Law are equally clear and unequivocal.

101. Section 24 of the "Cybercrime (Prohibition and Prevention) Act of 2015" provided for the following:

(1) Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that -

(a) is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be so sent; or

(b) he knows to be false, for the purpose of causing annoyance, inconvenience danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent: commits an offence under this Act and shall be liable on conviction to a fine of not more than N7,000,000.00 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment.

(2) Any person who knowingly or intentionally transmits or causes the transmission of any communication through a computer system or network:

(a) to bully, threaten or harass another person, where such communication places another person in fear of death, violence or bodily harm or to another person;

(b) containing any threat to kidnap any person or any threat to harm the person of another, any demand or request for a ransom for the release of any kidnapped person, Cyberstalking. to extort from any person, firm, association or corporation, any money or other thing of value; or

(c) containing any threat to harm the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, to extort from any person, firm, association, or corporation, any money or other thing of value, commits an offence under this Act and shall be liable on conviction:

(i) in the case of paragraphs (a) and (b) of this subsection to imprisonment for a term of 10 years and/or a minimum fine of N25,000,000.00; and

(ii) in the case of paragraph (c) and (d) of this subsection, to imprisonment for a term of 5 years and/or a minimum fine of N15,000,000.00.

(3) A court sentencing or otherwise dealing with a person convicted of an offence under subsections (1) and (2) may also make an order, which may, for the purpose of protecting the victim or victims of the offence, or any other person mentioned in the order, from further conduct which:

(a) amounts to harassment; or

(b) will cause fear of violence, death or bodily harm; prohibit the defendant from doing anything described/specified in the order.

(4) A defendant who does anything which he is prohibited from doing by an order under this section, commits an offence and shall be liable on conviction to a fine of not more than N10,000,000.00 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment."

102. Section 24 of the "Cybercrime (Prohibition and Prevention) Act, was amended in 2024, where only paragraphs a) and b) were replaced, and were replaced by the following:

"1. Any person who knowingly or intentionally sends a message or others matter by means of computer system or network that:

a) be pornographic in nature; or
b) he knows to be false, for the purpose of causing a breakdown of law and order, posing a threat to life or causing such message to be sent. (...)"

103. It is on this amendment, as claimed by the Applicant, that the Court will examine, because the remainder of the article, which has not been amended, has already ruled on. (See the cases *THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVES v. THE*

FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/16/20, para. 42 a 52; *THE INCORPORATED TRUSTEES OF THE SOCIO-ECONOMIC RIGHT & ACCOUNTABILITY (SERAP) v. FEDERAL REPUBLIC OF NIGERIA, AWARENESS INITIATIVE*, ECW/CCJ/JUD/12/22, para, 121 a 166)

104. The law also defines, in Section 58, the concept of "cyberstalking" as "a course of conduct aimed at a specific person that would lead a reasonable person to feel fear."

105. In the case *THE INCORPORATED TRUSES OF LAWS AND RIGHTS AWARENESS INITIATIVES C. FEDERAL REPUBLIC OF NIGERIA*, this Court examined the compatibility of the Cybercrime Act of 2015 with the relevant provisions of the international instruments invoked, and the Applicant alleged, inter alia, that the expression "gross offence" was vague and inaccurate, allowing arbitrary interpretations and applications.

106. In that judgment, the Court acknowledged that the expression "gross offence", taken in isolation, could in fact be subject to various interpretations. It also noted that other expressions contained in Section 24 of the impugned Law were written in a general manner, namely terms such as. However, taking into account the margin of assessment available to States in the definition and classification of certain conduct as criminal offences within the framework of their internal legal system, and the fact that the interpretation of these provisions takes place in the context of the current criminal system, the Court found that these standards provided sufficient information so that individuals could adjust their conduct to legal requirements. Thus, it concluded that Section 24 of the Cybercrime Act met the requirement of "law" provided for in Article 9(2) of the African Charter (cf. §§ 132-136).

107. It is noted, however, that despite that decision, the Respondent proceeded to amend the aforementioned law in 2024, removing the

provisions previously analysed and introducing new wording for the provisions in question.

108. It is important to reiterate that the general principle regarding evidence requires that the burden of proof rest with the party making the allegations. This rule is reversed only in situations where there is a legal presumption, a waiver, or a reversal of the burden of proof; in such cases, the burden of proof shifts to the opposing party.

109. Thus, in a court of law, once the party bearing the burden of proof has met that burden, that party benefits from the presumption arising from the evidence presented, and it is up to the opposing party to prove otherwise.

110. In the instant case, since the Respondent has contested the alleged facts, the Applicant has the burden of proving, by all legally admissible means, the truth of the allegations made; there must be a sufficiently consistent and convincing connection between the evidence presented and the facts alleged.

111. In this regard, the Court stated in the *judgment DAOUDA GARBA V. REPUBLIC OF BENIN, ECW/CCJ/JUD/01/10*, that *"cases of human rights violations must be sustained by evidence that would enable the Court to conclude that the alleged violation occurred in order to be able, if necessary, apply the appropriate sanctions"*. The Court also noted that "*It is a general rule of law that, during the course of a judgment, the party making an assertion must present the corresponding evidence. The burden of producing and presenting evidence therefore rests with the litigating parties, who must make use of all available legal means and submit evidence to support their claims. The proof must be convincing in order to establish a link between the alleged facts and the reality shown*" (in CCJLR 2010, p. 12, § 35).

112. It should be noted that the Applicant claimed that, following the amendment introduced in 2024, that law remains worded in vague and arbitrary terms, while maintaining that its provisions are formulated excessively widely, which would make them susceptible to abuse for illegitimate purposes. Such allegations were, however, expressly refuted by the Respondent.

113. In fact, the Applicant merely presented general arguments without specifically identifying which provisions of the law were drafted in a vague or arbitrary manner or were susceptible to abusive and repressive interpretations by the Respondent State. In this regard, the case law of the African Court of Human and Peoples' Rights is recalled in the case *THOBIAS MANG'ARA MANGO AND SHUKURANI MASEGENYA MANGO C. UNITED REPUBLIC OF* Tanzania, Application No. 005/2015, Judgment of May 11, 2018, §§ 145-146. Furthermore, the Applicant has not presented any specific case in which the interpretation by the competent law enforcement authorities of the Respondent State—which the Applicant claims is arbitrary, abusive, or vague—has resulted in a violation of the rights to freedom of expression and information of activists, journalists, or bloggers.

114. This burden of proof rested with the Applicant, which was not met in the instant case (see *MOUVEMENT DES RÉFUGIÉS MAURITANIENS AU SÉNÉGAL v. STATE OF SENEGAL*, ECW/CCJ/JUD/09/2023, § 93). Furthermore, it is important to reiterate the position already stated by this Court in the aforementioned judgment, according to which the State has a margin of discretion in defining and classifying certain conduct as offenses under its national legislation.

115. It should also be noted that it is well-established case law that facts may be proven through documentary evidence. In the instant case, the Applicant presented as evidence the documents identified as "Exhibits 3

through 7," for the purpose of supporting allegations of violations of the rights to freedom of expression and information of social media users, human rights defenders, activists, journalists, broadcasters, and bloggers, who are allegedly subject to harassment, intimidation, arbitrary detention, and unjustified prosecution due to the interpretation and application of Section 24 of the law in question, as amended in 2024.

116. However, the Court finds that the documents submitted, as well as the hyperlinks referred to therein, are not sufficient to substantiate such allegations, since the Applicant has not specifically identified the individuals allegedly affected, nor has it specified the circumstances in which the events allegedly occurred, namely regarding the identity of the alleged victims, the date and location of the events, or the existence of any eyewitnesses. In this regard, see, *a contrario sensu*, the reasoning set forth in *THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVES v. FEDERAL REPUBLIC OF NIGERIA*, § 167.

117. In short, the Court finds that the Applicant has not submitted any other evidence—such as lists identifying the alleged victims or their testimonies—that would corroborate the alleged violations, particularly with regard to the alleged detentions and arrests, as well as the conditions and grounds for them, so as to enable the Court to effectively assess the existence of the alleged human rights violations.

118. In fact, the evidence, whether documentary or witness, to be considered convincing, must establish a clear and direct link with the alleged facts (see *CHARLES NII ARMAH MENSAH C. REPUBLIC OF GHANA AND GAMING COMMISSION, ECW/CCJ/JUD/21/25* §§ 75 76-).

119. In the instant case, the Court finds that the Applicant has not produced sufficient evidence to demonstrate that the Respondent violated the rights to freedom of expression and information of the aforementioned groups;

it has failed to demonstrate, in a convincing manner, that the alleged detentions or arrests resulted from the interpretation and application of the provisions of Section 24 of the law in question, as amended in 2024, by state agents (see *THE INCORPORATED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) v. FEDERAL REPUBLIC OF NIGERIA*, §§ 54–62).

120. Accordingly, the Court finds that the Applicant's claim must be dismissed.

X. COSTS

121. The parties said nothing about the payment of expenses.

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.*"

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*".

122. Therefore, in the light of the above provisions, the Court determines that the parties shall bear their own costs of the proceedings, as shall be settled by the Chief Registrar.

XI. OPERATIVE CLAUSE

123. For these reasons, the Court held a public hearing and having heard the parties:

On Jurisdiction:

i. The Court declares that it has jurisdiction to examine the application.

On the admissibility:

ii. Declares the application admissible.

On The Merits of the Case:

iii. **Declares as not established** that the provisions of the 2024 Cybercrime Act (Prevention, Prohibition, etc.) (Amendment) violate international human rights laws, and consequently, the rights to freedom of expression, information, and opinion, and to freedom of the media guaranteed by the African Charter and the ICCPR and other relevant human rights treaties to which the Respondent is a party.

iv. **Declares as not established** the allegation that the Respondent and its agencies, as well as various States of the Respondent, are arbitrarily applying Section 24 of the Cybercrime (Prohibition, Prevention, etc.) (Amendment) Act of 2024 in an arbitrary manner to harass, intimidate, detain, prosecute, and unjustly arrest journalists, bloggers, social media users, and other Nigerians, thereby threatening and/or violating the rights to freedom of expression, information, opinion, and privacy, as well as the freedom of the media, guaranteed by Articles 6, 8, 9, and 24 of the African Charter, and by Articles 7, 9, 17, and 19 of the 1976 ICCPR and other relevant human rights treaties to which Nigeria is a party.

Accordingly,

v. All other claims are dismissed.

On the expenses:

vi. The parties shall bear their own costs of the proceedings.

Signed by:

Hon. Justice Ricardo C. M. GONÇALVES - Presiding/Judge Rapporteur

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Hon. Justice Sengu Mohamed KOROMA - Member .....

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

Dr. Yaouza Ouro-Sama – Chief Registrar .....

Done in Abuja on the 15th of May 2026, in Portuguese and translated into English and French.