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

In the Case of

1- MOUVEMENT IVOIRIEN DES DROITS HUMAINS (IVORIAN HUMAN RIGHTS MOVEMENT)
2- LIGUE IVOIRIENNE DES DROITS DE L'HOMME (IVOIRIAN LEAGUE OF HUMAN RIGHTS)
3- INTERNATIONAL FEDERATION FOR HUMAN RIGHTS
Against: Republic of Cote d'Ivoire

Suit No: ECW/CCJ/APP/15/25 ***Judgment No. ECW/CCJ/JUD/37/26***

JUDGMENT

ABUJA

On 25th June 2026

Suit No: ECW/CCJ/APP/15/25

JUDGMENT N°: ECW/CCJ/JUD/37/26

1 Translator: M. UKO

1- **MOUVEMENT IVOIRIEN DES DROITS HUMAINS (IVORIAN HUMAN RIGHTS MOVEMENT)**
2- **LIGUE IVOIRIENNE DES DROITS DE L'HOMME (IVOIRIAN LEAGUE OF HUMAN RIGHTS)**
3- **INTERNATIONAL FEDERATION FOR HUMAN RIGHTS**

APPLICANTS

V.

THE REPUBLIC OF COTE D'IVOIRE **DEFENDANT**

COMPOSITION OF THE COURT:

Hon. Judge Sengu Mohamed **KOROMA** **- Presiding**

Hon. Judge Dupe **ATOKI** **- Member**

Hon. Judge Gberi-bè **OUATTARA** **- Judge Rapporteur/Member**

ASSISTED BY: Dr. Yaouza **OURO-SAMA** **- Chief Registrar**

I. REPRESENTATION OF THE PARTIES:

1. Maître Mohamed Pongathié et Zakaria Touré, Société Civile Professionnelle d'Avocats (SCPA) Touré & Pongathié, Lawyers at the Abidjan Court of Appeal, with

an address at Cocody-les-Deux-Plateaux, boulevard Latrille, rue K32, villa 356, Telephone: (+225) 27.22.41.90.62, Telephone: (+225) 27.22.43.60.91, e-mail°: scpatourepongathie@aviso.ci ;

2. Maître Yacouba Doumbia, Lawyer at the Court of Appeal of Abidjan, with an address at II Plateaux Bd Latrille, Opérations Aghien, rue L14, villa 233 not far from Ecole Primaire Maternelle Aghien, 02 BP 965 Abidjan 02, Telephone: (+225) 27 22 42 94 99/(+225) 07 99 90 17 53, email: scpabambaouledoumbia@yahoo.fr

3. Maître Drissa Traoré, Lawyer at the Court of Appeal of Abidjan, with an address at Immeuble Péniel, 2nd floor, above Pharmacie de la Corniche, Rue B 32, Vieux Cocody, 08 BP 3868 Abidjan 08, Telephone: (+225) 27.22.44.32.84/ (+225) 01 52 79 95 51; email: traoredrissa2003@yahoo.fr

4. Maître Arci Eric Djélardjé, Lawyer at the Court of Abidjan, with an address at Plateau, boulevard Carde, between the 'Conseil Constitutionnel' and the 'Direction Générale du Trésor Public', BP 530 Cedex 03 Abidjan, Telephone: (+225) 07 49 75 09 09, email: eric.djelardje@gmail.fr;

5. Maître Clémence Bectarte, Lawyer registered at the Paris Bar Association (22, rue de Longchamp, 75116 Paris, France) with an address for service at SCPA Touré & Pongathié, Lawyers at the Abidjan Court of Appeal, with an address at Cocody-les-Deux-Plateaux, boulevard Latrille, rue K32, villa 356, Telephone: (+225) 27 22 41 90 62, Telephone: (+225) 27 22 43 60 91, e-mail: scpatourepongathie@aviso.ci; scpatourepongathie@aviso.ci;

6. Maître Catherine Gambette, member of the Paris Bar Association (2 rue de Penthièvre, 75008, Paris, France) with an address for service at SCPA Touré & Pongathié, Lawyers at the Abidjan Court of Appeal, with an address at Cocody-les-Deux-Plateaux, boulevard Latrille, rue K32, villa 356, Telephone: (+225) 27 22 41 90 62, Telephone: (+225) 27 22 43 60 91, e-mail: scpatourepongathie@aviso.ci;

7. All lawyers representing the applicants, for the purposes of these proceedings and any subsequent proceedings, elected as an address for service the Law firm of Mohamed PONGATHIE and Zakaria TOURE, Touré & Pongathié Professional Civil Law Firm (SCPA), lawyers at the Abidjan Court of Appeal, with an address at Cocody-les-Deux-Plateaux, boulevard Latrille, rue K32, villa 356, Telephone: (+225) 27.22.41.90.62, Telephone: (+225) 27.22.43.60.91, email: scpatourepongathie@aviso.ci

8. Maître COULIBALY Soungalo, lawyer at the Abidjan Court of Appeal, with an address at Abidjan-Plateau Indénié, Rue Toussaint Louverture, behind the Polyclinique de l'Indénié, Immeuble N'Galiema Resort Club, Ground floor, Door A2, 04 BP°: 2192 Abidjan 04, Tel.: 27 20 22 73 54/27 20 22 53 53, Fax: 27 20 22 72 33, Mobile: 07 07 46 87 91, Email: soung.coul01@gmail.com; coul.soungsecretariatcabinet@gmail.com

Counsel for the Defendant

II. JUDGEMENT OF THE COURT

9. This judgment is delivered by the Court in a virtual public hearing in accordance with Article 8(1) of the Practice Directions on Electronic Case Management and Virtual Hearings, 2020.

III. DESIGNATION OF THE PARTIES

10. The Applicants are:

1. Le Mouvement Ivoirien des Droits Humains, (Ivorian Human Rights Movement) abbreviated MIDH, a human rights association governed by Ivorian Order no. 2024-368 of 12 June 2024 relating to civil society organisations, whose Head office is at Angré 7ème tranche, Carrefour Oscar,

Cocody-les-Deux-Plateaux, commune de Cocody, Abidjan, 28 BP 385 Abidjan 28, Republic of Côte d'Ivoire, acting through its legal representative, Mr Drissa Bamba, Chairman of the Board of Trustees of the aforementioned association, whose registered office is at the aforementioned address;

2. La Ligue Ivoirienne des Droits de l'Homme, (Ivoirian League of Human Rights) abbreviated as LIDHO, a human rights association governed by Ivorian Order N°2024-368 of 12 June 2024 relating to civil society organisations, headquartered at Cité des arts, 323 logement, immeuble F1, Apartment 14, commune de Cocody, Abidjan, 08 BP 2056 Abidjan 08, République de Côte d'Ivoire, acting through its legal representative, Mr Willy Neth, Chairman of the National Executive Bureau of the said association, whose registered office is at the above-mentioned address;

3. La Fédération Internationale pour les Droits Humains (International Federation for Human Rights), abbreviated to FIDH, an international non-governmental human rights organisation, whose registered office is at 17 passage de la Main d'Or - 75011 Paris, France, acting through its legal representative, Mrs. Alice Mogwe, President of the said organization, whose address is at the aforementioned registered office;

11. The defendant is the Republic of Côte d'Ivoire, a member State of the Community, signatory to the African Charter on Human and Peoples' Rights and other international instruments relating to the protection of human rights (hereinafter referred to as "the defendant").

IV. *INTRODUCTION*

12. The purpose of these proceedings is to examine the applicants' request for a finding that the defendant violated their right to an effective remedy, their right to judicial protection, and their right to have their case heard within a reasonable time.

13. The applicants explained that on 6 August 2018, the Republic of Côte d'Ivoire issued Order No. 2018-669 granting amnesty, published in the Official Journal on 21 January 2019, which grants amnesty to persons prosecuted or convicted for offences related to the 2010-2011 post-election crisis.

14. Following the issuing of this order, human rights organizations, namely the Mouvement Ivoirien des Droits de l'Homme (MIDH), La Ligue Ivoirienne des Droits de l'Homme (LIDHO) and La Fédération Internationale des Droits de l'Homme (FIDH), after unsuccessfully attempting to have the order overturned by the national courts, brought the case before the ECOWAS Court of Justice, alleging that the defendant had violated its obligations under treaties it had ratified and which enshrine the rights of citizens of the States Parties, in particular the Fourth Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War (Articles 3 and 146), the African Charter on Human and Peoples' Rights of 1 June 1981 (Article 7), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984.

15. The defendant, after arguing that the Court lacks jurisdiction to hear the case and that the application is inadmissible, asserted that it has not violated any of its international commitments, let alone the rights of the victims of the post-election crisis.

V. PROCEDURE BEFORE THE COURT

16. On 25 February 2025, the Mouvement Ivoirien des Droits Humains (MIDH), *La Ligue Ivoirienne des Droits de l'Homme* (LIDHO) and *La Fédération Internationale des Droits Humains* (FIDH) filed an application with the Court against the Republic of Côte d'Ivoire for human rights violations. The Application was served on the defendant on the same day.

Public

17. On 28 March 2025, the defendant filed at the Registry of the Court a Statement of Defence. On 02 April 2025, this pleading was served on the applicants.

18. At the hearing of 16 May 2025, the parties were absent and unrepresented by their counsel. The case was therefore adjourned to 26 June 2025 for hearing of the parties.

VI. ARGUMENTS OF THE APPLICANTS

a) Summary of facts

19. Mouvement Ivoirien des Droits de l'Homme (MIDH), Ligue Ivoirienne des Droits de l'Homme (LIDHO) and Federation Internationale des Droits de l'Homme (FIDH) stated that the military-political crisis that Côte d'Ivoire experienced between 2010 and 2011 was marred by multiple and serious human rights violations during the five (05) months and a few days of its duration.

20. They stated that the multiple human rights violations were documented in the investigation report on human rights violations that occurred between October 31, 2010, and May 15, 2011, produced by the National Commission of Inquiry established on 20 July 2011 by Presidential Decree No. 2011-176. (Exhibit 13: Official Gazette of 19 April 2012, including Decree 2011- 176 on the establishment and organisation of a National Commission of Inquiry into Violations of Human Rights and Humanitarian Law that occurred after the Presidential elections of 31 October and 28 November 2010). (Exhibit No. 14: Investigation report on human rights violations that occurred between 31 October 2010, and 15 May, 2011).

21. This report mentions among other human rights violations *"summary executions, forced and involuntary disappearances, rape, torture and inhuman and degrading treatment, arbitrary and illegal mass and individual arrests, indiscriminate and targeted attacks against unarmed civilians, in particular women and children, for*

Public

their political or ethnic affiliation, attacks on mosques and other religious buildings, calls for murder and national hatred against nationals of the West African Community (ECOWAS), targeted attacks on individual and private property, attacks on freedom of opinion and expression and freedom of movement, attacks on personnel of the United Nations Operation in Côte d'Ivoire (ONUCI) and agencies of the United Nations system" (Exhibit No. 14: Investigation report on human rights violations that occurred between 31 October 2010 and 15 May 2011).

22. According to the report, the violations observed throughout the period in question can be attributed to a diverse group of actors, and 3,248 cases of violations of the right to life were recorded.

23. They affirmed that this assessment, and the characterisation of the violations of international human rights law and international humanitarian law committed during this period, are shared by the Report of the Independent International Commission of Inquiry on Côte d 'Ivoire. Established by UN Human Rights Council Resolution 16/25, it concluded its investigation as follows:

24. The Applicants disclosed that this Commission concluded its investigation as follows:

"[...]During the period under review, numerous serious violations of human rights and international humanitarian law were committed by various actors, some of which could constitute crimes against humanity and war crimes. These violations were committed by the Defence and Security Forces and their allies (militias and mercenaries) and then, during their counter-offensive and since their takeover of the country, by the FRCI. Based on the information gathered during its field visits and the cross-checks [that the Commission] was able to carry out, some 3,000 people may have been killed." (Exhibit 15: Report of the Independent International Commission of Inquiry on Côte d 'Ivoire, A/HRC/17/48, 8 June 2011.)

25. They explained that in view of the scale of the crimes committed during the post-electoral crisis and, beyond, to respect the moral and political commitment, repeated many times by the Ivorian State, to bring to justice those responsible so that Justice can be done, the Government of Côte d 'Ivoire, by interministerial Order, created a Cellule Spéciale d'Enquête (Special Investigation Unit) (the "CSE") responsible for "conducting the judicial investigation into the events that occurred in Côte d'Ivoire since 4 December 2010". (Exhibit 16: Inter-ministerial Order 020/MENJ/DSJRH/MEF on the creation, organisation, powers and functioning of a Special Investigation Unit relating to the post-electoral crisis, 24 June 2011).

26. The applicants stated that in 2013, the mandate of the CSE was perpetuated, and its resources strengthened, the unit becoming, by virtue of Presidential Order No. 2013/915 of 30 December 2013, the Special Investigation and Investigation Unit (the "CSEI"). (Exhibit 17: Presidential Decree No. 2013/915, on the creation, powers, composition and functioning of the Special Investigation and Investigation Unit, 30 December 2013)

27. They maintained that several judicial investigations have been opened and investigated within the Special Investigation and Investigation Unit. Among them, three particular procedures especially target serious violations of human rights and international humanitarian law.

28. Firstly, on 6 February 2012, the Public Prosecutor at the Abidjan-Plateau Court of First Instance, in a preliminary indictment, opened a judicial investigation into the named individuals, for the following offences, several of which fall under international humanitarian law, namely "the acts of genocide, crimes against the civilian population, murder, assassination, crimes against prisoners of war, intentional assault and battery, violence and assault, complicity, participation and attempt to commit the said offences: Acts provided for and punishable by Articles 24, 25, 26, 27, 28, 29, 30, 137, 138, 139, 140, 342, 343, 344, 345, 348, 349 and 351

of the Criminal Code" This preliminary indictment gave rise to investigation proceeding RI.08/12.

29. Secondly, on 6 November 2012, the Public Prosecutor at the Court of First Instance of Abidjan-Plateau opened a new judicial investigation (RI.38/12) targeting named persons, on the basis of the conclusions of the report of the National Commission of Inquiry and, epecially, its confidential annexes which established a list of a list of alleged perpetrators and masterminds of crimes committed during the post-electoral crisis. In this preliminary indictment, the Public Prosecutor refers to the following offences, including several offences under international humanitarian law: *"Crimes against civilian populations, genocide, attacks on personal freedom, assassinations, murders, rape, intentional assault and battery, death threats, violence and assault, tribalism and xenophobia, attacks, conspiracies and other offences against the authority of the State, armed gangs, participation in an insurrectional movement, breach of public order, looting, destruction or damage to foodstuffs, goods or equipment, theft, robbery, extortion, willful destruction of movable and immovable property, complicity, participation and attempt in all these offences"*.

30. Lastly, thirdly, proceedings were opened, initially with the Man Court of First Instance, then assigned to the CSEI in Abidjan (RI.03/2015), concerning crimes committed in July 2012 in the Nahibly camp for displaced persons in the town of Duékoué, in which 113 people were charged with *"murder, attempted murder, intentional assault and battery, intentional destruction of buildings, arson and criminal conspiracy"*.

31. The applicants specified that in all these cases, they brought civil actions alongside two hundred and fifty (250) victims. In total, *approximately two hundred*

and twenty (220) individuals have been charged with crimes against humanity, war crimes, acts of torture, murder, assassination, and rape.

32. The applicants pointed out that against all expectations, on 06 August 2018, the President of the Republic of Côte d'Ivoire issued Order 2018-669, by which he granted amnesty to persons prosecuted or convicted for offences related to the 2010-2011 post-election crisis. The list provided for in Article 2 of this order was never drawn up. **(Exhibit 1: Excerpt from the Official Gazette of the Republic of Côte d'Ivoire of 8 August 2018 publishing Order No. 2018-669 of 6 August 2018 on amnesty)**

33. They explained that on 5 October 2018, they filed an ex gratia appeal with the President of the Republic of Côte d 'Ivoire for the withdrawal of this amnesty order As no action was taken on their appeal, on 4 April, 2019, they lodged an appeal with the Administrative Chamber of the Supreme Court of the Republic of Côte d'Ivoire (now the Council of State) for annulment on the grounds of abuse of power against the presidential amnesty order of 6 August 2018. (Exhibit 18: Ex gratia appeal for annulment lodged with the President of the Republic of Côte d'Ivoire on 5 October 2018) (Exhibit 19: Action for annulment filed on 4 April 2019 with the Administrative Chamber of the Supreme Court of Côte d 'Ivoire).

34. The applicants stated that between these two ex gratia and litigation actions, on 27 December 2018, the Ivorian Parliament adopted Law No. 2018-980 of 27 December 2018 ratifying the amnesty order of 06 August 2018. This law was published on 21 January 2019 in the Official Gazette of the Republic of Côte d 'Ivoire. (Exhibit 2: Excerpt from the Official Gazette of the Republic of Côte d'Ivoire of 21 January 2019 publishing Ratification Law No. 2018-980 of 27 December 2018)

35. They claimed that the amnesty order was issued by the President of the Republic of Côte d 'Ivoire under Law No.2017-870 of 27 December 2017, on the State budget for the year 2018, whereas the amnesty is in no way related to economic and financial matters.

36. They argued that in the absence of a law passed by Parliament empowering the President of the Republic to take, by Order, measures that fall within the scope of the law in judicial matters, the President had no jurisdiction to decide on a general amnesty measure under Order No. 2018-669. Consequently, this order is illegal under the Ivorian Constitution. (Exhibit 20: Excerpt from the Official Gazette of the Republic of Côte d 'Ivoire of 29 December 2017 publishing Law No. 2017-870 on the State Budget for the year 2018)

37. They specified that it was in order to have this illegality sanctioned that they lodged an appeal with the Administrative Chamber of the Supreme Court of the Republic of Côte d'Ivoire on 4 April 2019, seeking the annulment of the presidential amnesty order of 6 August 2018 on the grounds of abuse of power.

38. They explained that on 20 March 2024, the Council of State (formerly the Administrative Chamber of the Supreme Court) of the Republic of Côte d'Ivoire issued a ruling in which it declared that it lacked jurisdiction to hear the appeal for annulment on the grounds of abuse of power. (Exhibit 33: Certificate from the Registry of the Council of State of the Republic of Côte d 'Ivoire dated 11 April 2024)

39. The applicants argued that they are seeking the annulment of the amnesty order and its ratification law, which they criticize, and their removal from the legal system of the Republic of Côte d'Ivoire, not only because they have a strong interest in doing so as human rights organizations, but also and above all because this order and ratification law are contrary to Ivorian positive law and thus constitute a violation of

Côte d'Ivoire's international commitments and of the human rights enshrined in international legal instruments relating to those rights.

b) Pleas - in - law

40. The applicants invoked in support of their application:

- Geneva Convention IV of 12 August 1949 relative to the Protection of Civilian Persons in Time of War (Articles 3 and 146);

- The African Charter on Human and Peoples' Rights of 1 June 1981 (Article 7);

- the Convention of 10 December 1984 against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,

- Protocol A/SP1/12/01 on Democracy and Good Governance of December 21, 2001, supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security of ECOWAS;

International Covenant on Civil and Political Rights.

- Security Council Resolution No.1315 of 14 August 2000.

(c) Orders sought

41. The applicants requested that it may please the Court:

- Declare itself competent to hear the Application.
- Declare the application admissible;
- Declare that the Republic of Côte d 'Ivoire has violated its obligation to search for and bring to its criminal Courts those responsible for alleged

war crimes in cases of non-international conflict, provided for in Articles 3 and 146 of the 4th Geneva Convention and thereby customary international law;

- Declare that the Republic of Côte d 'Ivoire violated the right of victims of violations of fundamental rights to judicial protection and to have their case heard, provided for in Article 7 (1) of the African Charter on Human and Peoples' Rights;
- Declare that the Republic of Côte d 'Ivoire violated its obligation to assume jurisdiction over acts of torture committed on its territory, as provided for in Articles 4 and 5 of the Convention against Torture;
- Declare that the Republic of Côte d 'Ivoire violated its obligation to guarantee good legislation in accordance with human rights requirements, provided for in Article 33 of Protocol A/SP1/12/01 on democracy and good governance;
- Order the Republic of Côte d 'Ivoire to annul Order No. 2018-669 of 6 August 2018 issued by the President of the Republic of Côte d 'Ivoire and Law No. 2018-980 of 27 December 2018 ratifying the Order of 6 August 2018, and to remove the said Ordinance and the said Law from its legal order;
- Order the Republic of Côte d'Ivoire to take all necessary measures to enable the victims of human rights violations committed during the 2010-2011 post-election crisis to make their case and to obtain the conviction of the perpetrators and accomplices of said violations as well as compensation for the damage resulting therefrom for them;
- Order the Republic of Côte d 'Ivoire to submit to the ECOWAS Court of Justice, within one (01) month from the notification of the requested judgment, a report on the measures taken to implement the injunctions made to it in the context of this judgment;

- Order the defendant to bear all the costs of the proceedings.

VII. ARGUMENT OF THE DEFENDANT

a) Summary of the facts

42. The defendant stated that, by letter received on 26 February 2025, the Registry of this Court notified it of the application filed by Mouvement Ivoirien des Droits Humains (MIDH), Ligue Ivoirienne des Droits de l'Homme (LIDHO) and Fédération Internationale pour les Droits Humains (FIDH) on 28 January 2025, addressed to the said Court.

43. It stated that, through this appeal, the applicants accused it of violating their human rights by issuing a presidential order and then an amnesty law relating to the events of the post-election crisis of 2010 and 2011, and that in order to put an end to these violations of their human rights, the applicants are requesting the Court to take a series of measures, including the annulment of the said order.

b) Pleas - in - law

44. The defendant relied on the following pleas in law:

- The Supplementary Protocol (A/SP.1/01/05) on the Court (Article 10;
- The Constitution of the Republic of Côte d 'Ivoire (Articles 126 and 135);
- The jurisprudence of the ECOWAS Court of Justice;
- The decision of incompetence of the Council of State of Côte d 'Ivoire.

(c) Orders sought

45. The defendant requested that the Court:

PRIMARILY:

-Find that Presidential Amnesty Order No. 2018-669 of 6 August 2018 and Law No. 2018-980 of 27 December 2018, ratifying the Order of 6 August 6, 2018, are legal norms of the Republic of Côte d'Ivoire, the control and sanctioning of which are excluded from its jurisdiction;

-Consequently, declares itself incompetent to hear the application by the MIDH, LIDHO, and FIDH for the annulment of Presidential Amnesty Order No. 2018-669 of 6 August 2018 and Law No. 2018 - 980 of December 27, 2018, ratifying the Order of 6 August 2018, of the Republic of Côte d'Ivoire;

ALTERNATIVELY

-Find that Presidential Amnesty Order No. 2018-669 of 6 August 2018 and Law No. 2018-980 of 27 December 2018 ratifying the Order of 6 August 2018, legal norms of the Republic of Côte d'Ivoire, do not constitute formal cases of human rights violations;

-Find that MIDH, LIDHO, and FIDH have not provided indisputable evidence that they were victims of a violation of their right to an effective remedy and reparation as a result of Presidential Amnesty Order No. 2018-669 of 6 August 2018 and Law No. 2018 - 980 of 27 December 2018, ratifying the Order of 6 August 2018, legal norms of the Republic of Côte d'Ivoire;

-Therefore, deems inadmissible the application for annulment directed against these legal norms of the Republic of Côte d 'Ivoire, both for lack of standing of the MIDH, LIDHO and FIDH, and for absence of cases of violation of human rights;

VERY ALTERNATIVELY:

-Find that Presidential Amnesty Order No. 2018-669 of 06 August 2018 and Law No. 2018-980 of 27 December 2018, ratifying the Order of 06 August 2018, do not grant a general and unconditional amnesty for human rights violations committed during the post-election crisis of 2010 to 2011 in Côte d'Ivoire;

Public

-Find that Law No. 2018-980 of 27 December 2018, ratifying Presidential Amnesty Order No. 2018-669 of 6 August 2018, is a factor of socio-political reconciliation and socio-economic stability of the Republic OF CÔTE D'IVOIRE;

-Consequently, dismiss the MIDH, LIDHO and FIDH's application for annulment of the said amnesty law, as well as all of their claims, as being unjustified and ill-founded;

-Order the costs of the proceedings to be borne by the MIDH, LIDHO and FIDH.

- Ordered Applicants to bear all costs.

VIII. JURISDICTION

Arguments of the applicants

46. The Applicants contended that under Article 9 (4) of Protocol A/P1/7/91 on the ECOWAS Court of Justice as amended by Article 3 of the Supplementary Protocol (A/SP.1/01/05): *"The Court has jurisdiction to determine cases of violation of human rights that occur in any Member State."*.

47. They claimed that their action is aimed at obtaining the repeal of an order and a law that constitute an obstacle to the punishment of human rights violations committed in the Republic of Côte d'Ivoire, a member state of ECOWAS, during the post-election crisis of 2010.

48. They invoked in this regard, Judgment No. ECW/CCJ/JUD/04/18 of 13 February 2018, delivered by the Court in the case of Federation of African Journalists v. The Republic of The Gambia, in which it affirmed that *"it will not examine the laws of Mmember States in abstracto, in concrete terms since it is not a Constitutional Court but, once human rights violations are allged, it invokes its jurisdiction to examnine whether or not there has been violation"*. They indicated that this decision was

reiterated by the Court in judgment No. ECW/CCJ/JUD/08/2022 of March 22, 2022, which it delivered in the case of Jean Pierre Fabre v. Republic of Togo, §6101, and that in doing so, the application of the provisions of Article 9(4) of Protocol A/P1/7/91 relating to the ECOWAS Court of Justice, as amended by Article 3 of Supplementary Protocol A/SP.1/01/05, and the case law of the ECOWAS Court of Justice, leads to the conclusion that the said Court has jurisdiction to hear this action.

Argument of the defendant

49. The defendant argued that the applicants' request seeks to obtain the annulment of Order No. 2018-669 of August 6, 2018, issued by the President of the Republic of Côte d'Ivoire, and of the law ratifying the Order of August 6, 2018.

50. It argued that they did indeed state as the subject of their application that: *"This application seeks a Judgment of the ECOWAS Court of Justice ordering the Republic of Côte d'Ivoire to annul Order No. 2018-669 of 6 August 2018 on amnesty and Law No. 2018-980 of 27 December 2018 ratifying the Order of 6 August 2018, following the serious events related to the Ivorian post-electoral crisis of 2010-2011"*

51. The defendant asserted that at the time of signing the application on 28 January 2025, and at least since 21 January 2019, the only legal basis for the amnesty in question is Law No. 2018-980 of 27 December 2018 ratifying the Order of 6 August 2018 granting amnesty.

52. This legal clarification was explicitly explained to the applicants by the Council of State when it delivered its ruling of lack of jurisdiction No. 143 of 20 March 2024, stating in the last ground for its decision that: *"Considering that, in this case, the order of the President of the Republic, issued in relation to amnesty, was ratified by Law No. 2018-980 of December 27, 2018, on amnesty, and published in the Official Gazette of 21 January 2019; that, therefore, it is of a legislative nature, removing it from the jurisdiction of the judge responsible for reviewing the legality of acts of*

*administrative authorities. (*Exhibit 1: Conseil d'Etat incompetence ruling no. 143 of 20 March 2024)

53. It is therefore not true that the applicants are seeking to dissociate the Presidential Amnesty Order from the Amnesty Law, in that there is only one legal basis for the amnesty in question, namely the Amnesty Law ratifying the Presidential Amnesty Order;

54. It argued that in the instant case, whether it be the amnesty law or, to a lesser extent, the presidential amnesty order, these are legal norms enacted by regular institutions of the Republic of Côte d'Ivoire, and any review or sanctions fall within the exclusive jurisdiction of the Constitutional Council, as affirmed by the Council of State in its decision on lack of jurisdiction.

55. The defendant also argued that, according to the case law of the Court expressly referred to by the applicants, appeals against the laws of Member States fall outside its jurisdiction. Therefore, human rights organizations have made a mistake in requesting that the Court exceed its jurisdiction and annul the presidential order and the amnesty law, legal norms whose control and sanction are the exclusive responsibility of the Constitutional Council.

ANALYSIS OF THE COURT

56. The Court recalls that its jurisdiction is governed by Article 9 of Protocol A/SP.1/01/05 of 19 January 2005 which provides that: "1. The Court has competence to adjudicate on any dispute relating to the following:

(...)

d) the failure by Member States to honour their obligations under the Treaty, Conventions and Protocols, regulations, directives, or decisions of ECOWAS;

(...)

4. The Court has jurisdiction to determine cases of violation of human rights that occur in any Member State. [...]" ;

57. The Court observes that it follows from this provision that it is competent, inter alia, to examine breaches by Member States of their obligations under the Treaty, Conventions and Protocols, Regulations, decisions and directives and to hear cases of violation of human rights enshrined in related legal instruments ratified by Member States.

58. The Court notes that, in the instant case, the applicants are asking it to examine the violation of provisions of human rights instruments ratified by the defendant, on the one hand, and the violation of a Community text, on the other hand, in particular the Protocol on Democracy and Good Governance, supplementary to the Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

59. The Court recalls that its jurisdiction in this matter is governed by the aforementioned Article 9 (4) With regard to human rights litigation, it has always declared itself competent when questions of human rights violations are invoked in the application by which it is seised. It has adopted this position in several decisions, notably (Judgment No. ECW/CCJ/JUD/28/24 of July 10, 2024: KONE Mamourou v. Republic of Côte d'Ivoire, § 51; Judgment No. ECW/CCJ/JUD/22/22 of March 31, 2022: Ligue Sénégalaise des Droits Humains and Amnesty International, Senegal Section v. Republic of Senegal, § 29).

60. The Court also recalls that, with regard to the examination of breaches by Member States contained in ECOWAS Community texts, it has affirmed in several decisions that it does indeed have jurisdiction to do so in accordance with Article 9 (1) (d) of the 2005 Supplementary Protocol, notably in Judgment No. ECW/ CCJ/JUD/19/13 of July 19, 2013, in the case of Karim Meissa WADE v. Republic of Senegal (CCJELR 2013, §79). P.259) where it held that: *"(...) These (Articles 9(1)*

(d) and 10(c)) provisions confer jurisdiction on the Court to examine failure by Member States to honour their obligations, pursuant to the ECOWAS Treaty and other derived texts adopted within the framework of ECOWAS, the Court can only be seised with such cases as are brought by an ECOWAS Member State or by the President of the ECOWAS Commission...". It reaffirmed this position in judgment No. ECW/CCJ/JUD/21/15 of October 23, 2015, in the case of Alternative Citoyenne and one (01) other v. Republic of Benin (CCJELR, §16, pp. 405-406).

61. The Court also recalls that, although it has long excluded the examination of national laws from its jurisdiction, it has affirmed in several decisions that it remains competent where the application or interpretation of a national law may give rise to a violation of a human right enshrined in a text ratified by the State concerned.

62. In Judgment No. ECW/CCJ/JUG/16/15 of July 13, 2015, delivered in the case of Congress for Democracy and Others v. Burkina Faso, (CCJELR (2015), §27, p. 303), it stated that: *"(...) The Court cannot of course undertake such a task, which would be diametrically opposed to its principled position recalled above. The Court still holds that, neither in the instant case nor in the ones which Community Court of Justice,* CCJELR *(2015) preceded it, will its function consist of seeking to discover the intention of the national lawmaker, or of competing with the domestic courts, within their own scope of jurisdiction, which, precisely, consists of interpreting their own national texts. But the Court assumes its rightful powers where the interpretation or application of the national text aims at depriving the citizens of rights embedded in international instruments to which Burkina Faso is a party."* It reaffirmed this position in judgment ECW/CCJ/JUD/04/18 of 13 February 2018 in the case of Federation of African Journalists v The Gambia.

63. The Court emphasizes that it does not carry out a review of conformity with a convention, which would require it to examine the conformity of a national law with a human rights convention, but ensures that the application of a national law does

Public

not contravene or impede the enjoyment of a right enshrined in an international or regional human rights instrument ratified by the State concerned.

64. The Court also notes that it has always affirmed that it is neither an appellate court nor a court of cassation of decisions rendered by the courts of the Member States (See on this subject Judgment No. ECW/CCJ/JUD/13/13 of 6 November 2013: LINDA GOMEZ and others v. Republic of The Gambia, CCJELR -2013, P. 325-326; Judgment No. ECW/CCJ/JUD/19/13 of 19 July 2013, Karim Meissa WADE v. Senegal, CCJELR -2013, P.257).

65. The Court emphasizes that in the instant case, the applicants argued that the amnesty law is an obstacle to the punishment of human rights violations committed in Côte d'Ivoire during the post-election crisis and that it infringes on the rights of victims, especially their right to judicial protection, their right to an effective remedy, and their right to have their case heard, as enshrined in the African Charter on Human and Peoples' Rights (ACHPR), the Fourth Geneva Convention of August 12, 1949, relative to the Protection of Civilian Persons in Time of War, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984, on the one hand, and on the other hand, violates the obligation imposed on ECOWAS member states by Article 33 of the Protocol on Democracy and Good Governance, supplementary to the Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

66. The Court notes that, in the instant case, it is undisputed that the applicants alleged a violation of fundamental rights enshrined in international and regional human rights instruments as a result of the entry into force of the amnesty law, which not only extinguished ongoing proceedings against persons named in alleged cases of serious human rights violations but also expressly prohibited any criminal proceedings against the beneficiaries of the amnesty law and, consequently, any

investigation into cases of serious human rights violations in which those persons are or could be involved.

67. It is also common ground that they invoked the violation of Article 33 of the Protocol on Democracy and Good Governance, as a result of the adoption of the amnesty law.

68. The Court notes that its task is not to review the legality, constitutionality, or conformity with the Convention of the amnesty law adopted by the Republic of Côte d'Ivoire, but rather to examine, on the one hand, whether its existence in the positive law of the Republic of Côte d'Ivoire and its implementation are not such as to infringe the human rights enshrined in the ACHPR, the Geneva Convention relative to the Protection of Civilian Persons in Time of War and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in particular the right to an effective remedy, the right to judicial protection and right to have one's case heard within a reasonable time, and, on the other hand, whether it constitutes a violation of Article 33 of the Protocol on Democracy and Good Governance.

69. The Court maintains that it is not its role to monitor the compliance of the amnesty law with the Ivorian Constitution or the respect of the procedure that led to its adoption or the compliance of this law with the aforementioned Conventions because this task falls exclusively within the competence of the Constitutional Council of Côte d 'Ivoire.

70. Nor is it for the Court to assess the merits of the decision on lack of jurisdiction delivered by the Council of State of the Republic of Côte d'Ivoire but, as stated above, it is for the Court to ensure that the existence of this amnesty law, and hence its application or implementation, has not infringed or is not likely to infringe the fundamental human rights enshrined in the legal instruments to which the defendant

is a party, or is not contrary to the obligations of Côte d'Ivoire as provided for in Article 33 of the aforementioned Protocol.

71. The Court notes that the criteria for its jurisdiction are met in the instant case in that the defendant ratified the ACHPR on 6 January 1992, the Geneva Convention on 20 December 1961, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 18 December 1995, and that it is a party to these various instruments which enshrine rights for the citizens of the States Parties.

72.???

73. The defendant is also a party to the Protocol on Democracy and Good Governance, supplementary to the Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

74. The Court finds that in the light of Article 9 (1) (d) and 9 (4) of the 2005 Supplementary Protocol and its case law cited above, it is appropriate to declare that it has jurisdiction to entertain the application.

IX. ON ADMISSIBILITY OF THE APPLICATION

Arguments of the applicants

75. The applicants maintained that they are duly constituted human rights organizations, having all completed the formalities required by the legislation of their place of establishment, and that they have legal personality and the capacity to bring legal action.

They emphasized that their corporate purpose is clearly defined in their articles of incorporation.

76. The MIDH, as far as it is concerned, affirmed that its creation was the subject of a notice published in the Official Gazette of the Republic of Côte d 'Ivoire, precisely in the publication of 15 September 2011 of the said Gazette and that under the terms of Articles 4 and 6 of its statutes, it is indicated that:

Article 4: "Le Mouvement Ivoirien des Droits Humains seeks to promote and defend the rights already recognized, to make known new rights and to promote and defend them.

Article 6: "In order to achieve its objectives, MIDH shall take the following measures: [...] legal action." Exhibit 5: MIDH registration certificate and extract from the Official Gazette of 15 September 2011) (Exhibit 6: MIDH statutes and rules of procedure)

77. LIDHO pointed out that its constitution was published in the Official Gazette of the Republic of Côte d'Ivoire on 9 August 1990, Article 4 of its statutes stipulating that: "LIDHO aims to promote and protect already recognized rights. Exhibit No. 7: LIDHO registration certificate and excerpt from the Official Gazette of 9 August 1990) (Exhibit 8: LIDHO statutes and rules of procedure)

78. For its part, the FIDH asserted that it was established in 1992 and that it was the subject of a publication in the Official Gazette of the French Republic, where it has its headquarters, on 6 May 1992.

It noted that Article 1 of its statutes states that "It works for the effective, universal, and indivisible application of conventions, international covenants, and all international and regional instruments relating to civil, political, economic, social, and cultural rights. *In particular it fights (...) torture, forced disappearances, war crimes, genocide, all crimes against humanity and all violations of humanitarian rights..." (...)* (Exhibit 9: Exercept from the Official Gazette of the French Republic of 6 May 1992) (Exhibit 10: Statutes of the FIDH)

79. The applicants also maintained that they have brought civil proceedings in the judicial investigations opened by the public prosecutor at the Abidjan-Plateau Court of First Instance in 2012, where they are representing nearly two hundred and fifty (250) victims of serious human rights violations, classified as criminal offenses committed during the post-election crisis. They argued that the admissibility of their action before the Ivorian criminal courts was confirmed by an order issued on 25 March 2013, by Mrs Cissé Makouéni Delphine, Investigating Judge at the Court of First Instance of Abidjan-Plateau.

They cited Article 8, paragraph 3, of Law No. 2018-975 of 27 December 2018 on the Code of Criminal Procedure allows human rights organizations to sue for damages as soon as human rights violations are involved. (Exhibit 11: Article 8 paragraph 3 of Law No. 2018-975 of 27 December 2018 on the Code of Criminal Procedure)

80. The applicants asserted that their interest in bringing proceedings has been recognized by a final court decision and by law, whereas it is clear that the purpose of the aforementioned amnesty order and the law ratifying it is to obstruct the criminal proceedings that have been brought, thereby causing prejudice to the civil parties. It therefore follows that they have a great interest in seeing the said proceedings continue, and therefore have an interest in seeking the annulment of the aforementioned provisions.

81. Finally, the applicants argued that they are admissible under Article 10 (d) (i) and (ii) of Protocol A/P1/7/91 relating to the ECOWAS Court of Justice, as amended by Article 3 of the Supplementary Protocol (A/SP.1/01/05), because in the instant case, it is clear that they are victims of a violation of their rights to an effective remedy and reparation, which constitutes a violation of human rights.

In addition, it is easy to note that the present application is not anonymous because it was filed in their own name by applicants whose identity is known, and moreover,

the application submitted to the Court is not pending before another international court with jurisdiction in the matter. They therefore considered that the present application is admissible.

Arguments of the defendant

82. The defendant avered that MIDH, LIDHO and FIDH declare that they have applied to the Court under its undisputed jurisdiction to hear all cases of human rights violations.

83. They claimed to have the capacity and legal standing to bring this action before the Court, given their proper constitution as human rights organizations, but also as victims.

84. That having been civil parties and victims' representatives in the criminal proceedings instituted to punish acts committed during the 2010 to 2011 military-political crisis in Côte d'Ivoire, they would be affected by the amnesty decisions under dispute;

85. They considered themselves victims of a violation of their rights to an effective remedy and reparation, a human rights violation that they hope will be sanctioned by the Court through the annulment of the presidential order and the amnesty law.

86. The respondent argues that under Article 10 (d) of the Supplementary Protocol (A/SP.1/01/05): "*Access to the Court is open to the following: (...) (d) individuals on application for relief for violation of their human rights.*"

87. It noted that the applicants who claimed to have brought civil proceedings on behalf of the victims in proceedings pending before the Ivorian Courts, claimed that these actions are extinguished because of the amnesty granted to the accused persons.

88. The defendants stated that it is certain that the Presidential Order and the Amnesty Law at issue in the instant case do not constitute formal cases of human rights violations within the meaning of point (d) of Article 10 of the Supplementary Protocol (A/SP.1/01/05);

89. It pointed out that, in addition, without presenting to the Court the alleged cases of human rights violations that could no longer be tried in Côte d'Ivoire, the applicants considered it appropriate to refer the amnesty law to the Court for review, without providing indisputable proof that it had infringed any of their recognized rights.

90. It maintained that, contrary to the applicants' allegations, the amnesty law has not been able to systematically put an end to all ongoing trials relating to cases of human rights violations committed during the post-election crisis from 2010 to 2011 since Article 1 of the amnesty order ratified provides that:

"Persons prosecuted or convicted for offences related to the 2010 post-election crisis or offences against State security committed after 21 May 2011, excluding persons on trial before an international criminal court, as well as military personnel and members of armed groups, shall benefit from an amnesty" It follows that, being excluded from the scope of the amnesty "*persons on trial before an international criminal court, as well as military personnel and members of armed groups"* , the applicants do not prove as it stands that the cases concerning them do not form part of these cases of exclusion.

91. The defendant considered that in such a case of exclusion, the alleged trials referred to by the Applicants should continue, and it would be open to them to maintain their representation as a civil party with a view to obtaining compensation.

92. The defendant cited Articles 126 and 135 of the 2016 Constitution of the Republic of Côte d 'Ivoire which respectively provide that:

Public

"Le Conseil constitutionnel is a Constitutional Court. *It is independent and impartial.*

The Constitutional Court is the body that regulates the functioning of public authorities.

The Constitutional Court rules on the law's conformity with the constitution (...). »

" Any litigant may, by way of exception, raise the unconstitutionality of a law before any court.

The court before which the challenge to the law is raised, shall stay the proceedings and shall give the litigant a period of two weeks to refer the matter to the Constitutional Court. At the end of this period, if the applicant has not provided proof that the matter has been referred to the Constitutional Court, the court shall give its ruling.

93. That it follows that, in cases where the amnesty law is likely to be applied, a litigant who challenges the legality of the said law is perfectly entitled to raise an objection to its unconstitutionality, by then referring the matter to the Constitutional Court for that purpose;

94. That the applicants in the instant case, who claim to be challenging the legality of the amnesty law, have not proved that they have referred this irregularity to the Constitutional Court, even though the latter has full power to examine it and suspend its application if necessary.

95. That it is unquestionably out of pure misunderstanding that the applicants fixate on the amnesty law, falsely claiming that the said law would constitute a violation of their right to an effective remedy and reparation; That as it stands, as much as the applicants do not prove that the disputed amnesty law is a formal case of violation of human rights, they do not prove that it constitutes a violation of their right to an effective remedy and reparation;

96. The defendant requested the Court to declare their application for annulment, inadmissible, both for the lack of their standing to bring proceedings and for the absence of cases of violation of human rights.

ANALYSIS OF THE COURT

97. The Court notes that the applicants invoked both the violation of international and regional human rights texts, namely the Geneva Convention IV, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the African Charter on Human and Peoples' Rights, on the one hand, and, on the other hand, Protocol A/SP1/12/01 on Democracy and Good Governance, supplementary to the Protocol relating to the Mechanism for the Prevention, Management, Resolution of Conflicts and the Maintenance of Peace and Security.

98. The Court observes that while the Geneva Convention, Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment and African Charter on Human and Peoples' Rights are human rights texts and contain commitments by States Parties, the Protocol on Democracy and Good Governance is an ECOWAS text and is not specific to the issue of human rights.

99. The Court therefore considers that it is necessary to assess the legal standing of the applicants to invoke a violation of the aforementioned texts before it.

- ***On the legal standing of the applicants to invoke the violation of Geneva Convention IV , Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and African Charter on Human and Peoples' Rights.***

100. The Court recalls that the conditions for bringing cases before it are laid down in Article 10(d) of the 2005 Supplementary Protocol, which provides that: "Access to the Court is open to the following:

Individuals on application for relief for violation of their human rights; the submission of application for which shall:

i) not be anonymous; nor

ii. be made whilst the same matter has been instituted before another International Court for adjudication".

101. It follows from this provision that for an application to be admissible before it, the applicant must have the status of victim and the application must not be anonymous or pending before an international Court competent in human rights disputes.

102. The Court also notes that any applicant who wishes to bring an action before it must prove his legal capacity to bring action before a Court, legal standing and interest to bring action. The Court recalls that in judgment No. ECW/CCJ/JUD/38/23 of 31 October 2023, delivered in the case of Association des Blogueurs de Guinée (ABLOGUI) and others against the Republic of Guinea, it stated in paragraph 25 of the said judgment that: "The Court notes, however, that it follows from the aforementioned Article that anyone who wishes to bring an application before it must have legal standing, failing which his application will be declared inadmissible.

Legal Standing simply means the legitimate interest or right to be protected held by the applicant...

103. The Court further recalls that, with regard to the case before it, it has accepted in its case law that it may be seised both by natural persons who are direct victims of a violation of their rights and by legal persons who are indirect victims acting within the framework of the actio popularis in defence of a public interest.

104. With regard to the latter scenario, the Court has accepted that legal persons with standing to bring proceedings before it and pursuing the defence and protection of human rights may bring proceedings before it when acting in the public interest.

105. In bringing such an action, the applicant does not need to have a mandate, provided that the action falls within the scope of its corporate purpose and is intended to defend a public interest.

106. The Court recalls that it has adopted this position in several of its decisions, notably in the case of Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO) v. Republic of Senegal, (Judgment No. ECW/CCJ/RUL/14/12 of July 6, 2012, CCJELR -2012, pp. 231-232), where it ruled as follows: *"The Court notes that in the instant case, RADHHO is a corporate entity with capacity to sue, and duly so, meaning that it is an NGO (cf. page 1 of Application) incorporated in Senegal, where its headquarters is based and it is engaged in promoting and defending human rights both in Senegal and throughout Africa, in the interest of natural persons who are victims of human rights violation."* See also the case of Incorporated Trustees of Prince and Princess and others v. the Federal Republic of Nigeria (Judgment ECW/CCJ/JUD/14/25 of March 17, 2025, § 38), where it noted that it had emphasized in the case of Issac Mensah that three (03) exceptions may be made to the conditions on standing to allow persons who are not direct victims to bring cases before the Court as set out in Article 10(d). These are:

a) *actions brought by indirect victims, i.e. persons closely related to the direct victim and who potentially suffer indirect consequences of the human rights violation;*
b) *a representative action brought by an individual or NGO on behalf of an individual victim or group with the authorization of such individual or group;*
c) *public interest actions (actio popularis) brought by NGOs or public-spirited individuals;*

In the same judgment, the Court stated that: "It follows that for the purposes of a public interest action, an applicant does not need to obtain a warrant or authorisation, as this would be impracticable or impossible".

107. The Court notes that, in the instant case, it has been seised by human rights organisations, namely Mouvement Ivoirien des Droits de l'Homme (MIDH), Ligue Ivoirienne des Droits de l'Homme (LIDHO) and Fédération Internationale des Droits de l'Homme (FIDH).

108. The Court further notes that MIDH has submitted to the file the certificate of registration and the excerpt from the Official Gazette of the Republic of Côte d'Ivoire dated 15 September 2011, as well as its statutes and internal regulations (Exhibits 5 and 6); LIDHO also submitted to the file the certificate of registration and the excerpt from the Official Gazette of the Republic of Côte d'Ivoire dated 9 August 1990, as well as its statutes and internal regulations (Exhibits 7 and 8); Finally, the FIDH submitted to the file an excerpt from the Official Gazette of the French Republic dated 6 May 1992, as well as its statutes and regulations (Exhibits 9 and 10). The various applicants are clearly identified in the application.

109. The Court emphasizes that the MIDH and LIDHO are associations under Ivorian law and that in doing so, they have the necessary legal capacity to approach it since they are governed by the national law of an ECOWAS Member State, in this case, the defendant.

Although FIDH is an association governed by French law, as it is registered in France, it has been granted standing to appear before the Ivorian courts, as evidenced by its referral to the Council of State of the Republic of Côte d'Ivoire alongside MIDH and LIDHO, and the recognition of this standing before the Ivorian criminal courts.

110. The Court concludes that FIDH has standing to sue insofar as the defendant has not raised any objection and, furthermore, this association has already been admitted in previous proceedings.

111. The Court notes that it is clear from the statutes of the MIDH, LIDHO and FIDH (Articles 4 and 6 of MIDH statutes, 6 of LIDHO statutes, Article1 of FIDH statutes) that these organizations have as their corporate purpose°"the defence, protection and promotion of human rights". These organizations therefore carry out actions to defend, protect and promote human rights in the general interest, and particularly in the interest of any person who would be a victim of a violation of their rights, in particular those enshrined in regional or international texts to which the defendant is a party.

112. In view of all the foregoing, the Court concludes that all the applicants are endowed with legal personality which confers on them the capacity to sue and that the action brought falls within the scope of their corporate purpose.

113. The Court notes, however, that while it is indisputably established that the applicants have the capacity to take legal action, on the other hand, they have not demonstrated their status as victims. Indeed, it appears from the documents in the case file, and especially from the application (document No. 1, paragraph 15), that the applicants are acting in their own names in the present application, as they themselves state as follows: "Finally, it is easy to see that this petition has been filed anonymously and in their own names by petitioners whose identities are known."

114. The Court notes that, in order to claim victim status, the applicants stated that they joined the civil proceedings in the judicial investigations opened by the Public Prosecutor at the Abidjan-Plateau Court of First Instance in 2012, where they are supporting nearly two hundred and fifty (250) victims of serious human rights violations classified as criminal offences during the post-election crisis.

115. The applicants specified that the admissibility of their action before the Ivorian criminal courts was possible pursuant to Article 8 (3) of Law No. 2018-975 of 27 December 2018 on the Code of Criminal Procedure, which allows human rights organizations to sue for damages as soon as human rights violations are involved. Exhibit 11: Article 8 paragraph 3 of Law No. 2018-975 of 27 December 2018 on the Code of Criminal Procedure)

116. The Court notes that this article provides in paragraph 3 that "legally constituted associations may constitute themselves as civil parties for the defence of collective interests. *They may also sue as a civil party for the defence of the individual interests of natural persons who are victims, in accordance with their statutes and under the conditions provided for by law.* »

117. The Court notes that, in the instant case, in the proceedings before the Ivorian Courts, the applicants brought civil action on behalf of nearly 250 victims of human rights violations. The Ivorian courts therefore did not need to ask them to unduly demonstrate that they have the status of victims since they were acting in the name and on behalf of the real victims of the offences against the accused and that the status of victim is assessed in the person of the represented and not in that of the representative.

118. In the present proceedings, the applicants asserted that they are now acting in their own name and on their own behalf and no longer on behalf of the two hundred and fifty victims, whose names they did not provide.

The Court further finds that the applicants' action is not aimed at defending an interest specific to these organizations, but that of any person who could be the victim of serious violations of their rights during the post-electoral crisis in the Republic of Côte d 'Ivoire. It is therefore not an actio popularis since they do not act in the defence of a public interest.

119. In these circumstances, the Court considers that since the applicants now declare that they are not acting in representation of the victims but rather in their own name, they must prove that they have the status of victim as required by the provisions of Article 10 (d) of the 2005 Supplementary Protocol referred to above.

120. The Court notes that because of the nature of the offences for which the accused are prosecuted before the Ivorian Courts, none of the applicants, who are all legal persons acting in their own name, may be victims. It is indeed according to the statements of the applicants themselves, an offence under international humanitarian law, namely, acts of genocide, crime against the civilian population, murder, assassination, crime against prisoners of war, assault and battery, violence and assault, complicity, coaction and attempt of said offences.

121. The Court concludes that the Applicants do not have and cannot have the status of victim of offences which can only be committed against natural persons.

122. The Court further notes that since the applicants do not have the status of victim, they cannot have an interest in bringing legal action. In fact, to support their claim that they have an interest in bringing legal action, the applicants argued that, as victims of human rights violations, they have an interest in ensuring that the proceedings brought before the Ivorian courts continue. Since the amnesty order and its ratification law are intended to obstruct the criminal proceedings in question, they violate their right to an effective remedy as well as their right to reparation. They therefore consider that they have an interest in requesting their annulment.

123. The Court notes that if the applicants' interest in bringing proceedings was accepted before the Ivorian courts, it was simply because they were acting on behalf of and for the victims of the offences with which those courts were seised. Since the applicants unequivocally declare that before the ECOWAS Court of Justice they are acting in their own name and no longer in representation of the victims, not only do

they lose their standing to bring action, but also and consequently, their interest in bringing action.

124. The Court concludes that in view of the foregoing, the applicants have neither locus standi nor an interest in bringing proceedings.

- ***On the legal standing to invoke the violation of the Protocol on Democracy and Good Governance.***

125. The Court recalls that Article 10(a) of the 2005 Supplementary Protocol provides that: "The following may bring matters before the Court: (a) any Member State and, unless the Protocol provides otherwise, the Executive Secretary, for complaints of non-compliance with the obligations of Member States...;

126. It emerges from this text that for breaches by Member States of their obligations resulting from ECOWAS instruments, only the Member States, or the Executive Secretary (President of the Commission), have the capacity to bring an action, against possible breaches.

127. The Court recalls that it adopted this position in the case of Hissène HABRE against the Republic of Senegal of 18 November 2010 in these terms: *"the Court observes that, as an individual, the Applicant lacks the legal status to bring this allegation before the Court, in regard to Article 10 of the Supplementary Protocol, since this has to do with the failure of Member State to Carry out its Community obligation"*

It reaffirmed its position in the Karim Meissa WADE case against the Republic of Senegal cited above in these terms: *"(...) it has jurisdiction to examine any dispute relating to failure by a Member State to implement a decision made by the Court. (...)Consequently, an application lodged on such subject-matter by an individual or*

corporate body other than a Member State and/or the President of the Commission, shall be declared inadmissible, for lack of locus standi.

128. The Court notes that, in the instant case, the applicants alleged a violation of Article 33 of Protocol A/SP1/12/01 on Democracy and Good Governance, supplementary to the Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, as a result of the adoption of the amnesty law. The application consider that the defendant has breached its obligation enshrined in the said Article, by adopting the amnesty law.

129. The Court notes, without it being necessary to consider whether the respondent has failed to fulfill its obligations, that, in accordance with the aforementioned Article 10(a) above, the applicants do not have standing to bring an action for failure to fulfill its obligations, as the right to bring such an action is limited to those persons specifically listed.

The Court finds that the applicants do not have legal standing to invoke before it the violation of the aforementioned Protocol.

➢ ***On the other conditions of admissibility of the application***

130. The Court recalls that, in addition to the status of victim and the non-anonymous nature of the application, it must not be pending before another international court with jurisdiction in human rights disputes.

131. The Court considers that in the present case, there is no evidence that the application before it is pending before another international human rights court.

132. The Court concludes that in the light of the foregoing, the conditions laid down by Article 10 (d) for the admissibility of applications before it, in the context of

human rights litigation, are not met. The Court concludes that in the light of the foregoing, the conditions laid down by Article 10 (d) for the admissibility of applications before it, in the context of human rights litigation, are not met.

133. The MIDH, LIDHO and FIDH do not have legal standing and do not justify any interest in bringing action. The application should therefore be declared inadmissible.

XIII. COSTS

134. Pursuant to Article 66, paragraph 2 of the Rules of the Court, the unsuccessful party is ordered to pay the costs, if the other party has applied for it.

135. The Court notes that, in the instant case, the applicants and the defendant have agreed to this effect.

136. Since the applicants have been unsuccessful in the present proceedings, they should be ordered to bear all costs.

XIV. OPERATIVE CLAUSE

For these reasons, the Court adjudicating in public, and after hearing both parties: Sitting in virtual and public hearing and after hearing both parties, in respect of human rights violations, in the first and last resort:

Declares itself competent to hear the application;

As to form

Declares that the applicants have neither legal standing nor interest to bring proceedings before the Court;

Declares the application inadmissible for lack of legal standing and interest in bringing legal action;

COSTS:

- Ordered Applicants to bear all costs.

Thus done and adjudged on the day, month and year above.

And the following append their signature

Hon. Justice Sengu Mohamed **KOROMA** **- Presiding**

Hon. Justice Dupe **ATOKI** **- Member**

Hon. Justice Gberi-bè **OUATTARA** **- Judge Rapporteur/Member**

ASSISTED BY: Dr. Yaouza **OURO-SAMA** **- Chief Registrar**