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

In the Matter of

COULIBALY MAMADOU

V.

REPUBLIC OF CÔTE D'IVOIRE

Application No: ECW/CCJ/APP/02/25; Judgment No. ECW/CCJ/JUD/29/26

JUDGMENT

ABUJA

22 June 2026

Plot 1164 Joseph Gomwalk Street, Gudu District, Abuja Nigeria.
www.courtecowas.org

COULIBALY MAMADOU **APPLICANT**

AND

REPUBLIC OF CÔTE D'IVOIRE **RESPONDENT**

COMPOSITION OF THE COURT

Hon. Justice Dupe ATOKI - Member/Judge Rapporteur

Hon. Justice Gberi-Be OUATTARA - Member

Hon. Justice Edward Amoako ASANTE - Member

ASSISTED BY:

Dr. Yaouza OURO-SAMA - Chief Registrar

REPRESENTATION OF PARTIES:

Maitre Bagnon Zaourou Leon - Counsel for the APPLICANT

SCPA Kebet & Meite -Counsel for the RESPONDENT

I. JUDGMENT

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

II. DESCRIPTION OF THE PARTIES

2. The Applicant was born in Yamoussoukro, Cote d'Ivoire, holds Ivorian nationality, and serves as Chairman of Parti Pour l'Integration Africaine, a duly registered political party in Cote d'Ivoire.

3. The Respondent is the Republic of Côte d'Ivoire, a Member State of the Economic Community of West African States (ECOWAS).

III. INTRODUCTION

4. This case is premised on the alleged violations of the Applicant's right to political parties' participation in the presidential election and the secrecy of the election sequel to amendment of the Electoral Code by Order No 2020-356 of 8th April 2020, which institutionalized citizen sponsorship as a condition for eligibility for the Presidential Elections.

5. The Applicant alleges that the sponsorship provided for in Articles 25, 51, 53, 54, and 56 of the new Electoral Code gives undue advantage to some candidates who collect as many signatures as possible to prevent other candidates from obtaining the necessary signatures in some regions, which eventually leads to the exclusion of the majority of legally constituted political parties from the election.

IV. PROCEDURE BEFORE THE COURT

6. The Initiating Application filed on 7 January 2025 was served on the Respondent electronically on the same day.

7. The Respondent, on 11 February 2025, filed a statement of defence, which was served on the Applicant electronically on the same day.

8. The Respondent, on 13 June 2025, filed a supplementary pleading to an earlier defence which was served on the Applicant electronically on the same day.

9. On 14 May 2025, the matter was slated for hearing, but the Respondent sought an adjournment, which was granted in the absence of any objection from the Applicant. The matter was further adjourned for hearing based on the request by the Respondent.

10. On 12 November 2025, the Applicant was absent in court and not represented, but the Respondent was represented. The Honourable Court proceeded to hear the submission of the Respondent on its merits and thereafter adjourned the matter for judgment.

V. APPLICANT'S CASE

Summary of Facts

11. The Applicant filed an application following the amendment of the Electoral Code through Order N 2020-356 on 8 April 2020, institutionalising citizen sponsorship as a condition for eligibility for the Presidential Elections, among other conditions, such as declaration of candidacy, the payment of a deposit, or the production of the required valid documents.

12. The Applicant alleges that this amendment violates the right to participate freely in the presidential election and the principle of secrecy of the vote which obliging voters to declare in advance which candidate they intend to vote for and portends danger of reprisal attack on such voters.

13. The Electoral Code, as provided in Articles 25, 51, 53, 54, and 56, prescribed procedures for the collection of signatures for the sponsorship of a candidate by voters in the election of the Head of State. The Applicant, therefore, submits that by implication any candidate for election to the office of the Head of State must be sponsored by at least electorates representing one percent (1%) of the local electorate, in at least fifty percent (50%) of the regions and autonomous districts (17 regions/34).

14. The Applicant submits that the fact that a voter can only sponsor one candidate leads certain candidates to collect the maximum number of signatures, preventing others from obtaining the necessary signatures in several regions, which will eventually exclude most legally constituted political parties from the Presidential Election.

15. They allege that there are 200 legally constituted political parties and that 8,012,424 votes were cast in Cote d'Ivoire at the time of this process. The Order amending the Electoral Code requires candidates in the Presidential Election to be supported by 1% of the local electorate in half of the regions, constituting at least 40,000 signatures for the validation of any candidate, which deprived several political parties of free participation in the elections.

16. The Applicant alleges that neither the signatories of the sponsorship, nor the political parties and candidates on whose behalf the signatures are obtained, have the slightest control over the procedures and criteria for assessing the validity of

the signatures; this is what the government intends to require candidates to have a national base to the exclusion of fanciful candidacies.

17. The Applicant claims that during the 2020 Presidential Elections, out of the 44 candidacy files, 30 applications (68.18%) were rejected on the grounds of incomplete administrative documents and the absence of a nomination receipt. The Applicant further identified that 8 applications (18.18%) were rejected for incomplete sponsorship, 8 for insufficient sponsorship, and 4 had won 1% of the local electorate in at least 10 regions. Gnamien Konan, 10 regions; Amon Tanoh, 13 regions; Dje bi Dje Olivier, 15 regions; and Mamadou Koulibaly, 15 regions. 4 files (9.09%) were validated, and 2 applications (4.54%) were rejected due to legal issues, leading to the removal of candidates from the electoral list.

18. The Applicant observes that the essence of the citizen sponsorship, as argued by the government, is to prevent fanciful candidacies, which was erroneous, but rather to eliminate certain heavyweights from the presidential election in view of the above data.

19. The rejection of several candidacies for incomplete sponsorship has led to civil disobedience and a boycott of the election by all opposition parties. The presidential election of October 2020 would have had 12 validated candidacies if the citizen sponsorship had not been introduced.

20. The Applicant alleges that demonstrations linked to civil disobedience and the boycott of the 2020 presidential election left 85 people dead (including one young man, N'guessan Koffi Toussaint, who was decapitated in Daoukro) and nearly 500 injured. More than 200 people and opposition leaders were arrested (according to the report of the Special Investigation Unit).

21. The Applicant finally concludes that Order No 2020-356 of 8 April 2020 on the amendment of the electoral code violates regional and other international human rights legal instruments ratified by the State of Côte d'Ivoire.

a) Pleas in Law

22. The Applicant relied on the following legal provisions:

- Article 1(1) of the ECOWAS Protocol on Democracy and Good Governance and several international legal instruments ratified by the State of Côte d'Ivoire, particularly;
- Articles 2, paragraph 1, and Article 21 paragraphs 1 and 2 of the Universal Declaration of Human Rights of 1948,
- Article 26 of the 1966 International Covenant on Civil and Political Rights, adopted within the framework of the United Nations,
- Article 3 (7) and (11), Article 4 (2), Article 8 (1), and Article 10 (3) of the African Charter on Democracy, Elections and Governance,
- Article 2 and Article 13 paragraphs 1 and 2 of the African Charter on Human and Peoples' Rights.

b) Reliefs Sought

23. Consequently, the Applicant sought the following reliefs:

- To declare the present initiating Application as admissible and well-founded;

- To declare that the electoral law, as amended, violates the right to free participation in the Presidential Election;

- To declare that the electoral law, as amended, violates the secrecy of the vote by obliging voters to declare in advance which candidate they intend to vote for;

- To order the State of Côte d'Ivoire to remove all obstacles to the free participation of political parties in the election of the President of the Republic resulting from this amendment and to protect the secrecy of the citizen's vote;

- Order the State of Côte d'Ivoire to pay all the costs.

VI. RESPONDENT CASE

Summary of facts

24. The Respondent contends that the adoption and amendment of the electoral law under reference were made to incorporate the principle of citizen sponsorship for all presidential election candidates. The State of Côte d'Ivoire, in the interests of equality and inclusion, has chosen to favour consensual solutions regarding the conditions for organising the presidential election.

25. In that regards the President of the Republic instructed the Government to engage in discussions with political parties and civil society organisations towards ensuring an amendment of the Electoral Code to reflect the people's wish.

26. The Respondent claims that these inclusive discussions, which were completed on 26 June 2019, and which made it possible to identify the aspirations of political parties, political groups, and civil society organisations, resulted in a final report signed by the stakeholders. This led to the enactment of the electoral law now in contention.

27. The outbreak of COVID-19 pandemic at the end of 2019, and the proximity of the Presidential Elections, which were then slated for October 2020, empowered the President of the Republic, who was authorised, under Law N 2019-1080 of 18 December 2019, to make Orders on measures relating to law by means of an ordinance.

28. It was therefore in this context that Order No. 2020-356 of 8 April 2020, revising the Electoral Code, was issued, establishing citizen sponsorship as one of the

conditions of eligibility for election as President of the Republic, in line with the common will of political actors, stakeholders, and civil society organisations.

29. The Respondent submits that this is reflected in the explanatory memorandum to the ratification law of 28 May 2020 of the said ordinance, which clearly indicates that the innovations and amendments adopted were the result of consultation between the Government and all parties, political groups, stakeholders, and civil society organisations.

30. The Ivorian Parliament, on 28 May 2020, without any reservation regarding citizen sponsorship, unanimously adopted the ratified law, particularly in both chambers, and members of the General and Institutional Affairs Committee of the National Assembly during its assessment.

31. The Respondent submits that no member of the Ivorian parliament, regardless of political affiliation or persuasion, submitted any possible amendments or raised concerns about the compatibility of the law with the constitution in respect of citizen sponsorship law, nor was there any application made by any political party, political group, or civil society organisation to the Constitutional Council to challenge the constitutionality of the ratified law.

32. They state that the adoption of the new mechanism of citizen sponsorship in 2020 was a result of a broad national political consensus, on whose strength the electoral law establishing sponsorship was implemented during the presidential election in October 2020 without any grievances against it as constituted in the present application.

33. The Respondent claims that none of the candidates who partook in the October 2020 election or had their candidacy rejected hold grievances against the electoral

law that institutionalised citizen sponsorship. This is because its legitimacy was legalised by the Republic of Côte d'Ivoire in relation to the presidential elections.

34. The Electoral Code had therefore become a model for the Republic in the conduct of its elections, especially the presidential election, due to its acceptability among political stakeholders, civil society organisations, and other political actors.

35. The Respondent expressed surprise that it was after almost 5 years of the adoption of the electoral code, which was applied for the first time without any stress during the October 2020 Presidential Elections, that the Applicant (Mr. COULBALY Mamadou) believes he can challenge, while claiming to be Chairman of a political party. A party which, for all intents and purposes, fully participated, without any reservations, in the discussions that led to the adoption of the law, an outcome of an all-inclusive dialogue among the political stakeholders and members of civil society organisations.

a) Pleas in law

36. The Respondent has no pleas in law.

b) Reliefs sought

37. Consequently, the Respondent sought the following reliefs:

- A declaration that the application is inadmissible

  Or in the alternative

- A declaration that the application is unfounded and dismiss it accordingly.

VII. JURISDICTION

38. The instant application is premised on the alleged violations of the right to free participation in the political governance and by implication in the presidential election and the right to secrecy of the election sequel to amendment of the

Electoral Code by Order No 2020-356 of 8th April 2020, which institutionalized citizen sponsorship as a condition for eligibility for the Presidential Elections.

39. The Applicant alleges that the sponsorship provided for in Articles 25, 51, 53, 54, and 56 of the new Electoral Code gives undue advantage to some candidates which eventually leads to the exclusion of the majority of legally constituted political parties from the election.

40. Consequently, the Applicant alleges that these sections restrict the participation in the governance of the country contrary to Article 13 of the African Charter.

41. Article 9(4) of the Supplementary Act SA.1/12/25 Relating to the Community Court of Justice provides that: *"the Court has jurisdiction to determine cases of human rights violation in any Member State"*.

42. The implication of the provision of Article 9(4) herein above stated is that for the court to assume jurisdiction to adjudicate on a matter brought before it, there must be a prima facie allegation of violation of human rights that grants the court the requisite competence to adjudicate on cases brought before it.

43. In that regards, a mere allegation of human rights violation suffices to invoke the jurisdiction of the Court. See INCORPORATED TRUSTEES OF CENTER FOR PEACE AND CONFLICT MANAGEMENT IN AFRICA AND RETHINK AFRICA FOUNDATION & 7 ORS (CONSOLIDATED) V THE FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/17/22 @ Pg. 17 para 52;

44. Considering that in the instant application, the Applicant alleges that Articles 25, 51, 53, 54, and 56 of the new Electoral Code restrict the participation in the governance of the country contrary to Article 13 of the African Charter, the Court

therefore holds that it possesses the requisite jurisdiction to adjudicate on the present application.

VIII. ADMISSIBILITY

45. It is the statutory position of this Court that even where jurisdiction has been established, a case of violation of human rights is only admissible under certain conditions which the Applicant must satisfy before his/her case can be admitted.

46. Article 10(4) of the Supplementary Act provides that: *An individual on the Application for relief for violation of their human rights; the submission of application for which shall: a) not be anonymous; nor, b) be made whilst the matter has been instituted before another competent international court for adjudication.*

47. The Court notes that the Respondent objected to the admissibility of the present application before it under two heads: procedural irregularity and absence of victim status.

a) Procedural irregularity.

48. The objection is to the effect that the Applicant's domicile was not indicated in the initiating application, contrary to the provision of Article 33 of the Rules of the ECOWAS Court of Justice. Consequently, the application is inadmissible due to the irregularity.

49. The Applicant did not respond to this objection.

Analysis of the court

50. Article 33 of the Rule of Procedure of the Court provides that: 1) An application of the kind referred to in Article 11 of the Protocol shall state:

a) The name and address of the applicant

b) The designation of the party against whom the application is made.

c) The subject-matter of the proceedings and a summary of the pleas in law on which the application is based

d) the form of order sought by the applicant

e) where appropriate, the nature of any evidence offered in support.

51. The objection of the Respondent to the admissibility of the Application is that it did not indicate the domicile of the Applicant contrary to Article 33 of the Rules of the Court.

52. The Latin phrase for domicile, that is 'domum colere,' means to foster or inhabit the home. This refers to domicile as not just any place of residence, but a place of habitual residence. There has not been a landmark decision by the ECOWAS Court of Justice, where domicile as a concept has been explicitly defined. But Lord Cranworth V-C in WHICKER V HUME (1858) 7 HSL 124, defined domicile as "By 'domicile' we mean home, the permanent home…".

53. On the face of his Originating Application, the Applicant states that he was born in Yamoussoukro (Cote d'Ivoire) of Ivorian Nationality and a citizen of ECOWAS. It is not clear where the applicant is domiciled, but it can be inferred that, being an Ivorian national born in Yamoussoukro, he is domiciled in some region of the state of Côte d'Ivoire, especially as he claimed to be the chairman of a political party in that country.

54. However, by Article 33(a) of the Rules of Court, the application must indicate the name and the **address** of the Applicant(s). The relevant word here is *address*. An address is a part of a standard mailing address, including the building or house

number, street name, and any apartment or suite number, the city or town, state or region, and postal/ZIP code.

55. Article 33(a) of the Rules of Court does not contemplate the indication of domicile of the Applicant, rather it requires the address, which is not interchangeable with one another. The import of the requirement of an address is to enable a location for the service of court processes.

56. In any event, the absence of the applicant's address is not fundamental to the admissibility of an application. Thus, under Article 33(6) of the Rules, the Chief Registrar is obliged to contact the Applicant where a procedural irregularity is noticed, giving a time to rectify the defect. That having not been done, the court adopts the presumption of regularity and admits the Application.

57. The Court finds that the Respondent misconstrued the requirement in Article 33(a) of the Rules. Consequently, the Respondent's objection in this respect is dismissed.

b) Victim status

58. The second objection of the Respondent regarding admissibility is that neither the Applicant nor his political party participated in the presidential election and therefore has not established the status of a victim.

59. The Applicant did not respond to this objection.

Analysis of the Court

60. Under Article 10(d) of the Supplementary Protocol (2005), access to the ECOWAS Court in human rights cases is granted to "individuals on application for relief for violation of their human rights." Accordingly, victim status operates as the gateway requirement for standing (locus standi) in individual applications.

61. In practical terms, a person must show that they qualify as a "victim" of an alleged human rights violation attributable to a Member State for the application to be admissible.

62. A victim of a human rights violation is any person natural or, in some interpretive frameworks, legal that, individually or collectively, has suffered physical or mental injury, emotional suffering, economic loss, or a substantial impairment of fundamental human rights as a result of acts or omissions that constitute a gross violation of international human rights law, or that otherwise breach internationally recognized human rights norms. See LAWRENCE H. JOTHAN AND 13 OTHERS V FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/11/19, ECW/CCJ/JUD/33/21 @ pg 74, para 23. See also the provision of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Survivors of Violations of International Human Rights and Humanitarian Law, GA Res 60/147, Preamble, Sec IX, UN Doc A/RES/60/147 (March 21, 2006).

63. The general understanding of victim status or standing under Article 10(4), as confirmed by the Court's jurisprudence, is that the Applicant must demonstrate that they are, *prima facie*, victims of human rights violations attributable to the Respondent. In other words, they have been injured by the conduct of the Respondent (be it an act, omission, practice, law, amongst others) and therefore have a personal interest or stake in the matter. See AMNESTY INTERNATIONAL TOGO AND OTHERS V THE TOGOLESE REPUBLIC ECW/CCJ/JUD/09/20, paras 31-33.

64. The objection of the Respondent is based on the fact that neither the Applicant nor his party participated in the presidential election; consequently, the Applicant had not suffered any personal injury as an individual by virtue of the amended electoral law. Therefore, the application fails to fulfil the requirement of victim status as

prescribed by the Supplementary Act, and that the application be declared inadmissible.

65. The instant application is centred on the Respondent's violation of the rights to free participation of political parties in the presidential election of the Republic, resulting from the amendment of the electoral law and the violation of the secrecy of the vote of the electorate, leading to the exclusion of several other eligible candidates at the election.

66. In that regard, the Applicant claims that the Electoral Code 2020-356 of 8 April 2020 has stiffened the political landscape and deprived some of the political parties and candidates of participation in the Presidential Elections, which therefore affected his political involvement in the affairs of his country and qualifies him as a victim.

67. The Applicant concludes that the stringent conditions imposed by the Electoral Code 2020 are capable of depriving legitimate parties and candidates of the opportunity to be elected to any elective position because of the various sponsorship requirements for eligibility for any political office as promulgated by the amended electoral law.

68. To establish victim status under Article 10(4) of the Supplementary Act, the Applicant must demonstrate, prima facie, that he is personally and directly affected by the impugned measure. In the present case, this requires showing that the amendment of the Electoral Code by Order No. 2020-356 of 8 April 2020, which introduced citizen sponsorship as a condition for eligibility in presidential elections, constituted a real and concrete impediment to his right to participate freely in the political process.

69. It is not necessary that the Applicant prove actual candidature or participation in the election; it suffices that the contested law imposed eligibility conditions that impaired or had the potential to impair his legally protected right to political participation and the secrecy of the vote, thereby conferring upon him the requisite standing as a victim of the alleged human rights violation. SEE ALHAJI MUHAMMED IBRAHIM HASSAN V. GOVERNOR OF GOMBE STATE & FEDERAL GOVERNMENT OF NIGERIA (2012) CCJELR 81; PARA 46 AND AMNESTY INTERNATIONAL TOGO & ORS V. TOGOLESE REPUBLIC, ECW/CCJ/JUD/09/20; SERAP v. FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/12/22).

70. Consistent with the jurisprudence of the Court, the victim status of the Applicant is declared established.

71. The Court, having recognised the victim status of the Applicant and the present application, not being anonymous nor pending before another similar international court, meets the admissibility criterion pursuant to Article 10(4) of the Supplementary Act, holds that the application is admissible.

IX. MERITS

Right of freedom of participation in political processes by parties.

72. The crux of the Applicant's allegation is that the imposition of citizen sponsorship as a condition for eligibility for the Presidential elections, and secrecy of votes in line with the amended Electoral Code by Order no 2020-356 of 08 April 2020 is discriminatory and an attempt to stifle the political landscape thereby violating free political parties participation in the presidential election and secrecy of vote contrary to the provisions of Articles 2, Article 13(1&2) of the African Charter on Human and Peoples' Rights and Article 1(1) of the ECOWAS Protocol on Democracy and Good Governance.

Respondent's submission

73. The Respondent refutes the allegations, arguing that stakeholders and civil society organizations consciously agreed upon the amendment, and it was subsequently passed through the legislative assembly for ratification before being adopted in the October 2020 presidential election.

74. They contend that the adoption and amendment of the electoral law under reference were made to incorporate the principle of citizen sponsorship for all presidential election candidates as a condition for eligibility as President of the Republic in line with the common will of political actors and civil society. This is to exclude fanciful candidates' participation.

Analysis of the Court.

75. The Court notes that the core of the Applicant's claim is that Articles 25, 51, 53, 54, and 56 of the new Electoral Code No 2020-356 of 8 April 2020 by the Respondent state (Cote d'Ivoire) infringe on the right of political parties to participate freely in elections.

76. The Articles are reproduced as follows:

***Article 25**: Each candidate shall indicate:*

- the electoral constituency selected, where applicable;

- the colour, logo and symbol chosen to appear on the ballot paper;

- the title of the list, if it is a list of candidates;

- any sponsorship secured, where applicable.

***Article 51**: Every candidate standing for election as President of the Republic shall submit a declaration of candidacy bearing their duly certified signature.*

In addition, they must be endorsed by a list of voters representing one per cent (1%) of the local electorate, in at least fifty per cent (50%) of the autonomous districts and regions.

***Article 53**: The nomination for the election of the President of the Republic shall indicate, for each candidate:*

- the names and first names;

- the date and place of birth;

- nationality;

- filiation;

- the nationality of the father or mother;

- place of residence and occupation;

- the political party or parties that nominated him, if applicable;

- the colour, logo and symbol chosen for the single ballot paper;

- the autonomous districts or regions where nominations were secured, along with the percentage of voters in those areas who nominated the candidate.

***Article 54:** The nomination form for the election of the President of the Republic must be accompanied, for each candidate, by the following documents:*

1) an excerpt from the birth certificate or the substitute court order serving as such;

2) a certificate of nationality;

3) an extract of the criminal record;

4) a certificate of fiscal regularity;

5) a copy of the bond receipt.

- The documents listed above shall have been issued no more than three months prior to the closing date for applications.

The nomination for the election of the President of the Republic must also be accompanied by the following documents:

- a letter of nomination from the political party or parties or political group or groups, where applicable;

- the list of voters supporting the candidacy, including their first names, surname, date and place of birth, the electoral constituency in which they are registered, their voter registration number and identity card number (where applicable), as well as the signature of the person concerned.

- An elector may sponsor only one candidate.

- *If a candidate appears on more than one list, their nomination on the first list checked – in the order in which the lists were submitted, shall be validated, whilst their nomination on the other lists shall be invalidated. However, if, as a result of this disqualification, a candidate fails to meet the minimum threshold of registered voters on the electoral roll or the minimum threshold per autonomous district and per region, the representative concerned shall be notified. The organiser may rectify the situation by replacing the invalidated endorsements within forty-eight hours, up to the number of endorsements invalidated for this reason.*
- *Any voter who endorses more than one candidate shall be liable to a term of imprisonment of between one month and one year and a fine of between one hundred thousand and one million francs.*
- *Anyone who has organised or planned acts constituting fraud or attempted fraud in relation to sponsorship shall be liable to the same penalties.*
- *Fundraising is prohibited in military and paramilitary barracks, within military and paramilitary services, and in healthcare facilities.*
- *Any person who solicits sponsors in military or paramilitary barracks, in military or paramilitary services, or in healthcare facilities shall be liable to a term of imprisonment of between six and twelve months and a fine of between one and five million francs.*
- *The lists of sponsors are drawn up by collectors appointed by the candidate. Each one shall bear the name of the collector responsible.*

- *The Constitutional Council, in conjunction with the Electoral Commission, shall verify the lists of candidates' sponsors.*
- *For the collection of signatures, a standard form shall be drawn up, in both paper and electronic formats, and made available to each candidate by the Electoral Commission.*
- *The procedures for organising the collection of signatures are laid down by decree of the Council of Ministers, on the recommendation of the Electoral Commission.*

Article 56: *As soon as applications are received, they are published by the Constitutional Council. Candidates, or the political parties that have nominated them, shall submit their complaints or comments to the Constitutional Council within seventy-two hours of the publication of the list of candidates.*

- *The Constitutional Council shall verify the eligibility of candidates and check the validity of voters' endorsements, in accordance with the provisions of the Electoral Code. To this end, the Constitutional Council shall set up a system for verifying nominations. The operating procedures of this system shall be laid down by the Constitutional Council.*
- *The Constitutional Council shall draw up the list of candidates after verification of their eligibility.*
- *It shall adopt and publish the final list of candidates forty-five days before the first round of the ballot.*

77. In examining the alleged violation of the Applicant's rights by these articles, the Court states that the foundational provision that guarantees free participation in political governance is Article 13(1) of the African Charter on Human and Peoples' Rights, which provides as follows: *the right to participate freely in the government of his country, either directly or indirectly or through a freely chosen*

representatives in accordance with the provisions of the law". Article 25 of the ICCPR is also pari materia with this provision.

78. Article 2 of the African Charter on Human and Peoples' Rights also guarantees *"Every individual shall be entitled to the enjoyment of the rights and freedom recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.*

79. These provisions grant direct and free access to vote and be voted for in accordance with the national law without discrimination. They are not only recognised but also enforceable, and any unjustifiable restriction of political parties or citizens' participation in the governance of the country will amount to a violation of the right to participate in the governance of the country. See OMAR JALLOW & ANOR v. REPUBLIC OF THE GAMBIA (2016) JUDGMENT NO. ECW/CCJ/JUD/33/16 @ PG.11, UNREPORTED

Violation of the secrecy of the citizens' vote

80. Upon this premise, the court will examine the submission of the Applicant on the specific articles referred to.
81. Regarding the violation of secrecy of votes, The Applicant rely on Article 54 (4-6) of the amended law which requires a voter to submit;

- A letter of nomination from the party or parties or political groupings, where applicable
- The list of voters sponsoring the candidacy, with their first names, surnames, date and place of birth, the electoral district in which they are registered, the number of the electoral card and identity card, where applicable, and the signature of the person concerned.

82. He thereafter alleged that this provision violates the secrecy of the citizens' vote, insofar as it requires the full identity of the sponsors and their contacts. In addition, it entails enormous risks for voters who give their sponsorship to a candidate, insofar as this act presumes their intention to give their vote to a candidate.

83. Having examined Article 54 (4-6) as referenced by the Applicant, the court is unable to find support for the allegation of secrecy in the implementation of the article. To the extent that aspirations are expected to have sponsors and lawfully so, they cannot remain anonymous. The list of accompanying documents are essential to verify the authenticity of the voters as human beings who are resident in an identifiable district and who have also registered as such.

84. The secrecy issue raised by the Respondent does not impede the democratic nuance which free participation in governance guarantees. Consequently, the Court holds that Article 54 (4-6) of the amended Electoral Act is not in violation of the provision of Article 13(1) of the African Charter.

Imposition of citizen's sponsor

85. Regarding the imposition of citizens sponsor, the crux of the Applicant's allegation is that Articles 25, 51, 53, and 56 of the amended electoral law restricts political participation by obliging candidates to obtain1% of registered voters across at least 50% of regions. This allegedly excluded many political parties from contesting elections as stronger candidates could collect signatures early, preventing others from qualifying.

86. In examining the submission of the Applicant on this head, the court notes that while the Applicant recited in full all the referenced articles of the amended law, he did not explain how each article impedes his guaranteed right under Article 13(1) of the African Charter.

87. This universally acknowledged principle, recited in Latin *El incumbit probation qui dicit, non qui negat,* which means he who asserts must prove, is a cornerstone principle that places the responsibility on the party making a positive claim to provide evidence supporting that claim. This ensures fairness by preventing baseless allegations and requiring substantive proof before a court can act on such an allegation.

88. Consequently, the burden of proof, both legal and evidential, lies with the one who alleges to prove his/her matter before the Court. The litigant must prove the existence of those facts to be entitled to the prayers brought before the court.

89. In that regards, the court has held that *"The onus of proof is on the party who asserts a fact and who will fail if that fact does not attain the standard of proof that would persuade the Court to believe the statement of the claim."* See FEMI FALANA & ANOR v. REPUBLIC OF BENIN & 2 ORS (2012) CCJELR 1. See also, PETROSTAR (NIGERIA) LIMITED v. BLACKBERRY NIGERIA LIMITED & ANOR (2011) CCJELR 99, PARA. 33.

90. On the backdrop of this statement, it is imperative to note that the sequential requirement to secure a relief from a court is not only to provide evidence in support of the claim, but it is of utmost importance for such evidence to be convincing and sufficient to move the court to grant the relief sought.

91. Thus, the law is firm and well established that in claims for declaratory reliefs the Plaintiff must plead sufficient facts to constitute a platform for the relief being sought, and he must lead or proffer cogent and credible evidence to sustain or support the said relief. See CHARLES NII ARMAH MENSAH V REPUBLIC OF GHANA AND GAMING COMMISSION, ECW/CCJ/APP/25/24, ECW/CCJ/JUD/21/25 @Pg. 16, para. 69.

92. Additionally, any litigant seeking relief for an alleged violation of a human right based on specified facts must not only prove those facts but also establish the link to the harm, injury, or damage suffered. Thus, it is not enough to itemize on the face of an application the contested articles with a generalized allegation of their incompatibility with the guaranteed right, without linking the articles to the alleged violation.

93. In this regard, in the instant application, the Applicant merely cited Articles 25, 51, 53, and 56 of the revised electoral law without articulating how each of these articles prevented him from participating in the Presidential election.

94. The court notes the best practice with regard to the applicant's submission on Article 54 (4-6), where he matched the ingredients of the said law with concrete linkage with the restriction on his right to free participation in the election. Thereupon, the Court was able to make a finding on the allegation. Paragraph 80 supra.

95. Consequently, to claim to be a victim, there must exist a sufficient direct link between an applicant and the prejudice he deems to have suffered as a result of the alleged violation." See AZIAGBEDE KOKOU & 68 ORS V. REPUBLIC OF TOGO (2013) CCJELR at page 175, and LAWRENCE H. JOTHAN AND 13 OTHERS V FEDERAL REPUBLIC OF NIGERIA supra page 24 para 76.

96. Thus in the instant application, the Applicant must establish a sufficient causal link between the sponsorship and other requirements and the alleged violation of his rights, by demonstrating that the law either actually excluded him or was capable of excluding him, as a citizen and chairman of a duly registered political party, from effective political participation.

97. The applicant did not placed before the court cogent and convincing proof of the linkage to show how the Articles 25, 51, 53, and 56 prevented his participation in the 2020 Presidential election. The court is therefore not able to come to a conclusion whether any of the articles potentially raise concerns regarding the right to unhindered participation in the governance of the country, or whether a relied for an order for their amendment has been justified.

98. Having failed to substantiate the allegations raised against the Respondent, the court holds that the Respondent did not violate his right guaranteed under Article 13(a) of the African Charter.

99. The application is therefore dismissed.

X. COSTS

100. Article 66(2) of the Rule of Court states that the unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

101. Though the Applicant failed to prove his case, the Court nevertheless ordered each of the party to bear its own costs.

XI. OPERATIVE CLAUSE

102. The Court sitting in public after hearing both parties:

As to Jurisdiction:

Declares that it has jurisdiction to determine this case;

As to Admissibility:

Declares that the case is admissible

As to Merits:

Dismisses the Application for failing to substantiate the allegations.

As to costs

Orders each party to bear its costs.

Hon. Justice Dupe ATOKI - Member/Judge Rapporteur .....

Hon. Justice Gberi-Be OUATTARA- Member.....

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

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

Done in Abuja, on this 22nd day of June 2025, in English and translated into French and Portuguese.