THE COMMUNITY COURT OF JUSTICE OF THE

ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

In the Matter of

THE CENTRE FOR COMMUNITY LAW V. THE AUTHORITY OF HEADS OF STATE & GOVERNMENT & 13 ORS

Application No: ECW/CCJ/APP/09/25; Judgment No. ECW/CCJ/RUL/04/26

RULING

CONAKRY, GUINEA

DATE: 18th May 2026

THE CENTRE FOR COMMUNITY LAW **-APPLICANT**

V.

1. **THE AUTHORITY OF HEADS OF STATES & GOVERNMENT** **-RESPONDENTS**
2. **BENIN REPUBLIC**
3. **REPUBLIC OF COTE D'ÍVOIRE**
4. **REPUBLIC OF GAMBIA**
5. **REPUBLIC OF GHANA**
6. **REPUBLIC OF GUINEA**
7. **REPUBLIC OF LIBERIA**
8. **REPUBLIC OF MALI**
9. **REPUBLIC OF NIGER**
10. **REPUBLIC OF NIGERIA**
11. **REPUBLIC OF SIERRA LEONE**
12. **REPUBLIC OF SENEGAL**
13. **TOGOLESE REPUBLIC**

COMPOSITION OF THE COURT

Hon. Justice Sengu Mohamed KOROMA -Presiding/Judge Rapporteur
Hon. Justice Dupe ATOKI - Member
Hon. Justice Edward Amoako ASANTE -Member

ASSISTED BY:

Dr. Yaouza OURO-SAMA - Chief Registrar

REPRESENTATION OF PARTIES:

Prof. Amos ENABULELE C. O. OJUMAH, Esq.	- Counsel for the APPLICANT
A. H. ABEBAYO, Esq. L. O. BELLO, Esq. Olanrewaju YUSUF, Esq. Hauwa Sidi BAGE, Esq. A. S. AROMARADU, Esq. Badirudeen ABDULLAHI, Esq.	- Counsel for the First Respondent
Maimuna Lami Shiru (Mrs.) Olubanke O. ODUNALA (Mrs.) Ngosoo T. A. UCHEGBU (Mrs.)	- Counsel for the Eleventh Respondent
J. O. OKETE, Esq. Mariama NGUM C. C. NJAI Esq. Y. F. TRERA	– Counsel for the Fifth Respondent
Jasmin M. ARMAH	- Counsel for the Sixth Respondent

I. JUDGMENT:

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

II. DESCRIPTION OF THE PARTIES:

2. The First Applicant is the Centre for Community Law, a Non-Governmental Organization established under Nigerian Law with its registered office at No. 9, Agho Street Benin City, Nigeria.
3. The First Respondent is the Authority of Heads of State and Government of ECOWAS, the highest decision-making body of the Economic Community of West African States and a Community Institution of the ECOWAS.
4. The Second Respondent is Benin Republic, a Member State of ECOWAS.
5. The Third Respondent is the Republic of Burkina Faso, a Member State of ECOWAS.
6. The Fourth Respondent is the Republic of Cote d'Ivoire, a Member State of the ECOWAS.
7. The Fifth Respondent is the Republic of the Gambia, a Member State of ECOWAS.
8. The Sixth Respondent is the Republic of Ghana, a Member State of ECOWAS.
9. The Seventh Respondent is the Republic of Guinea, a Member State of ECOWAS.
10. The Eighth Respondent is the Republic of Liberia, a Member State of ECOWAS.
11. The Ninth Respondent is the Republic of Mali, a Member of State of ECOWAS.
12. The Tenth Respondent is the Republic of Niger, a Member State of ECOWAS.

13. The Eleventh Respondent is the Federal Republic of Nigeria, a Member State of ECOWAS.
14. The Twelfth Respondent is the Republic of Sierra Leone, a Member State of ECOWAS.
15. The Thirteenth Respondent is the Republic of Senegal, a Member State of ECOWAS.
16. The Fourteenth Respondent is the Togolese Republic, a Member State of ECOWAS.

III. INTRODUCTION

17. The Application challenges whether the Respondents have complied with regional and continental legal safeguards on human rights, democracy, good governance, and the free movement, residence, and establishment of people. The claims arise in the context of Burkina Faso, Mali, and Niger formally withdrawing from ECOWAS as of 29th January 2025. The Applicant contends that, while a transitional period was designated until 29th July 2025 to maintain diplomatic channels, no measures were implemented to protect the rights and interests of ECOWAS citizens during this interval. It is alleged that the Respondents' actions, collectively and individually, violate the fundamental rights of citizens residing in, traveling to, or conducting business within the territories of the withdrawing States from the date of their exit.

IV. PROCEDURE BEFORE THE COURT

18. On 28th January 2025, the Applicant filed the Initiating Application commencing this suit, in the Registry of the Court. It also filed an Application for Expedited Hearing, on the same day.

19. Shortly after this, on 10th March 2025, the Eleventh Respondent being out of time to file its Defense filed a Motion for Extension of Time within which to file its Defense.
20. The next day, on 11th March 2025, the Eleventh Respondent filed its Defense in opposition to the Applicant's Initiating Application in the Registry of the Court.
21. On 16th April 2025, the Applicant filed a Reply to the Eleventh Respondent's Defense, and service was effected on 21st April 2025.
22. Then on 13th May 2025, the First Respondent filed a Preliminary Objection together with its Statement of Defense, in the Registry of the Court.
23. Following this, on 19th May 2025, the Eleventh Respondent filed a Motion on Notice seeking leave to file a Rejoinder, together with its Rejoinder in opposition to the Applicant's Reply.
24. The Court held a hybrid session on 7th July 2025, in which the Eleventh, First and Fifth Respondents were represented by Counsel. The Court took note of a letter from the Applicant requesting an adjournment, read by the Chief Registrar. As no objection was raised by the Respondents, the Court granted the adjournment, directing the Registry to communicate the new date to the parties.
25. The Fifth Respondent lodged its Preliminary Objection against the Court's jurisdiction and Statement of Defense, in the Registry of the Court on 17th September 2025.
26. The Court held a Virtual Session on 18th November 2025, when it heard the Preliminary Objections filed by the 1st and 5th Respondents, together with the Applicant's responses and the Respondents' rights of reply. The matter was thereafter withdrawn for Ruling.

V. APPLICANT'S CASE

a. Summary of facts

27. The Applicant contends that, pursuant to rights guaranteed under the ECOWAS legal framework, citizens of the Community are entitled to enter, reside in, and establish businesses within Member States of which they are not nationals, in furtherance of the principles of free movement, establishment, and integration.

28. The Applicant avers that significant populations of ECOWAS Community citizens reside in, conduct business within, or transit across the territories of various Member States for purposes including commerce, family relations, and personal pursuits, in reliance on the protections afforded under the Community legal regime.

29. The Applicant states that, in or about 2023, the Republic of Burkina Faso, the Republic of Mali, and the Republic of Niger each announced their intention to withdraw from ECOWAS and subsequently issued formal notices to that effect in accordance with the applicable Treaty provisions.

30. The Applicant further asserts that, at the Sixty-Sixth (66th) Ordinary Session of the Authority of Heads of State and Government, held on 15th December 2024 in Abuja, the Authority confirmed that the said States would cease to be members of ECOWAS effective 29th January 2025.

31. It is further contended that, at the same Session, the Authority established a transitional period spanning from 29th January 2025 to 29th July 2025, during which the Community would maintain engagement with the withdrawing States and keep its institutional framework open to them.

32. The Applicant avers that the Authority additionally mandated the Council of Ministers to convene an Extraordinary Session in the second quarter of 2025 to consider and adopt modalities governing the separation process, as well as a contingency framework addressing political and economic relations between ECOWAS and the withdrawing States.

33. Notwithstanding the foregoing, the Applicant submits that no concrete or enforceable contingency measures have been instituted to safeguard the rights of ECOWAS Community citizens who reside in, conduct business in, or transit through the territories of the withdrawing States. In particular, the Applicant expresses concern that such persons are exposed to risks including mass or selective deportation, expropriation of property, and harassment during cross-border movement, thereby resulting in a *de facto* "*hard withdrawal*" capable of undermining vested Community rights.

b. Pleas in Law

34. The Applicant relies on the following pleas in law in support of its claims:

- Articles 4, 59, and 92 of the Revised Treaty of the Economic Community of West African States.
- Articles 1, 2, 12(4), 14 of the African Charter on Human and Peoples' Rights.
- Articles 25, 27, 33, and 49 of the Protocol A/SP.1/12/01 on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.
- Articles 11 and 13 of the Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment.
- Articles 7(1) and 16 of the Supplementary Protocol AISP 2/5/40 on the Implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment.
- Articles 9, 10 And 20 of The Supplementary Protocol (A/SP.1/01/05) Amending the Protocol (A/P.1/7/91) Relating to the Community Court

of Justice.

- Article 38 of the Statute of the International Court of Justice.
- Article 2 of the Vienna Convention on the Law of Treaties.
- Article 33 of the Rules of the Community Court of Justice.

c. Relies sought

35. The Applicant is seeking the following reliefs from the Court:

a. A DECLARATION that the failure or omission of the Respondents to enter into meaningful negotiation and put a contingency plan in place to safeguard the rights of the citizens of ECOWAS in the withdrawing States after 29 January 2025, is a violation of the rights guaranteed citizens of ECOWAS in the international instruments cited above.

b. A DECLARATION that the failure or omission of the Respondents to enter into meaningful negotiation and put a contingency plan in place regarding movement across the frontiers of the withdrawing states constitutes a violation of the rights of all citizens of ECOWAS who are potential victims of the uncertainties that have thus been created.

c. AN ORDER directing the Respondents to, without delay, cooperate with each other in putting a contingency plan in place while working out the transition arrangement between the parties.

d. AN ORDER directing the 3rd, 9th and 10th Respondents to respect the human rights of all ECOWAS citizens within their territory in accordance with the obligations that they undertook while members of ECOWAS until an agreed transition period is past.

e. AN ORDER directing the 1st, 2nd to 8th, 11th to 14th Respondents to, upon withdrawal taking effect, respect the human rights of all citizens of the 3rd, 9th and 10th Respondents, who are residing in, doing business

in, or are transiting their territory in accordance with the obligations under ECOWAS Laws, until an agreed transition period is past.

f. SUCH FURTHER orders the Honourable Court may deem fit to make in the circumstances of this suit.

VI. RESPONDENTS' CASE

a. Summary of Facts

36. The Eleventh Respondent, while entering a general denial, contends that the Applicant's claims are premised on mere anticipation and speculation, in that they seek to pre-empt hypothetical instances of abuse, molestation, or expropriation of property affecting ECOWAS citizens during the transitional period concerning the 3rd, 9th, and 10th Respondents. It argues that no actual violation of any fundamental right has been established, nor has any identifiable victim been presented before the Court.

37. The Eleventh Respondent further submits that the Application fails to take into account the measures already undertaken by the Respondents in compliance with their obligations relating to peace, security, and regional stability under the applicable Community instruments.

38. It maintains that such compliance is evidenced by the decision of the Authority to establish a six-month transitional period, within which the Presidents of the Thirteenth and Fourteenth Respondents are mandated to develop contingency arrangements and pursue diplomatic engagement aimed at ensuring either a structured disengagement or the possible reintegration of the withdrawing States into the Community.

39. The Eleventh Respondent also challenges the locus standi of the Applicant, contending that, as a non-governmental organization incorporated under Nigerian law, its registration under the Companies and Allied Matters Act does not confer

the requisite legal capacity to institute the present proceedings or to litigate on the rights invoked.

40. It further argues that the claims advanced by the Applicant are inherently pre-emptive and devoid of any substantiated breach of the fundamental rights of ECOWAS citizens.

41. While acknowledging the effective withdrawal of the Third, Ninth and Tenth Respondents on 29th January 2025 and the existence of a six-month transitional period, the Eleventh Respondent denies that there has been any failure to establish contingency measures. In this regard, it relies on the Communiqué of the Sixty-Sixth Ordinary Session and the ECOWAS Conflict Prevention Framework as evidence of ongoing efforts toward sustained political and economic engagement.

42. In conclusion, the Eleventh Respondent reiterates that the Applicant lacks standing, having failed to demonstrate any mandate or to identify specific victims, thereby rendering the Application speculative and inadmissible. It further submits that actions of a representative nature must be grounded in demonstrable authority and identifiable victims.

b. Relief Sought

43. The Eleventh Respondent accordingly prays this Honorable Court to dismiss the Application in its entirety, on the grounds that it is speculative, pre-emptive, lacking in merit, and unsupported by any substantiated violation of rights.

VII. APPLICANT'S REPLY IN RESPONSE TO 11TH RESPONDENT'S DEFENCE

44. In response to the Eleventh Respondent's defence, the Applicant urges the Court to discount the said defence in its entirety, on the ground that it fails to engage

with the substance of the claims and is predicated on a mischaracterisation of the Application.

45. The Applicant contends that its claim is not speculative but firmly grounded in the doctrine of preventive justice as recognised under international human rights law. It submits that emerging developments, including restrictions imposed on ECOWAS passport holders in the Republic of Niger, demonstrate a real and imminent risk of violations, thereby justifying the Court's intervention.

46. The Applicant maintains that its standing is well-founded under the ECOWAS legal framework, including relevant instruments recognising the role of civil society in promoting and safeguarding Community rights. It asserts that the jurisprudence of this Court permits public interest litigation in human rights matters without the necessity of identifying specific victims.

47. The Applicant challenges the legal validity of the purported six-month transitional period, arguing that it lacks binding force and does not constitute a concrete or enforceable contingency framework capable of safeguarding the rights of ECOWAS citizens.

48. It further submits that, following the effective withdrawal of the Third, Ninth and Tenth Respondents, ECOWAS legal protections ceased to apply within those States, thereby creating a normative gap and exposing Community citizens to potential violations without any operative legal safeguards.

49. The Applicant emphasizes that the present Application was instituted prior to the effective date of withdrawal and is therefore properly founded on foreseeable and imminent risks, rather than retrospective claims.

50. It contends that the absence of protective measures violates the obligations of Member States under Article 1 of the African Charter on Human and Peoples' Rights and undermines the Community regime on free movement, residence, and establishment.

51. The Applicant further submits that ECOWAS citizens residing in or transiting through the territories of the withdrawing States constitute a sufficiently identifiable class of persons entitled to protection, and that the absence of individually named victims does not defeat admissibility in a public interest action.

52. In response to the objection on authorization, the Applicant clarifies that the present suit is not a representative action but a public interest claim, thereby obviating the requirement for express mandate from affected individuals.

53. The Applicant concludes by urging the Court to dismiss the Respondent's objections, affirm its jurisdiction, uphold its standing, and reiterate its role as the guarantor of human rights within the ECOWAS legal order.

VIII. FIRST RESPONDENT'S PRELIMINARY OBJECTION

54. By way of Preliminary Objection, the First Respondent urges the Court to dismiss and/or strike out the Application *in limine* on the following grounds:

i. That the suit is improperly constituted and thereby deprives the Court of jurisdiction, in line with the decision in SERAP & ORS V FEDERAL REPUBLIC OF NIGERIA & 4 ORS (2014) CCJELR.

ii. That no live dispute exists for determination, the 3rd, 9th, and 10th Respondents having ceased to be Member States of ECOWAS.

iii. That the Court lacks the requisite jurisdiction and competence to entertain the suit.

iv. That the Applicant lacks locus standi to institute the action.

v. That the suit is hypothetical, academic, and devoid of utilitarian value.

55. In support of its objection, the First Respondent contends that the Applicant has failed to demonstrate any mandate authorising it to institute the present action, and that the claims are predicated on speculative and premeditated allegations of possible human rights violations.

56. It further argues that the joinder of the Third, Ninth and Tenth Respondents, having ceased to be Member States of ECOWAS, renders the suit incompetent, thereby depriving the Court of jurisdiction as presently constituted.

57. The First Respondent submits that the reliefs sought are no longer grantable, as the Court cannot compel the withdrawn States to engage in negotiations or to undertake obligations following their exit from the Community.

IX. FIRST RESPONDENT'S DEFENCE

58. Without prejudice to the foregoing objection, the First Respondent contends that the Applicant's claims are legally untenable, particularly in light of the withdrawal of the 3rd, 9th, and 10th Respondents and the measures already undertaken by the Community.

59. It submits that the said States exited the Community in accordance with the provisions of the Revised Treaty, thereby terminating their obligations under ECOWAS legal instruments with effect from 29th January 2025.

60. The First Respondent reiterates that the Applicant lacks capacity to institute the present proceedings, as its constitutional mandate, evidenced by its registration under the applicable domestic law, does not extend to litigating or enforcing the rights of third parties.

61. It further states that the withdrawal of the Third, Ninth and Tenth Respondents was duly notified and acknowledged in accordance with Article 91 of the Revised Treaty, with effect from 29th January 2025.

62. The First Respondent confirms that a transitional period from 29th January 2025 to 29th July 2025, was established to manage the withdrawal process and safeguard the interests of affected Community citizens.

63. It also notes that the Authority directed the President of the Commission to initiate withdrawal formalities and to develop a contingency framework addressing the implications of the withdrawal.

64. In addition, the Council of Ministers was mandated to convene an Extraordinary Session to adopt separation modalities and a contingency framework governing political and economic relations with the withdrawing States.

65. The First Respondent contends that these measures constitute sufficient steps taken in good faith to address the consequences of the withdrawal and to protect the interests of Community citizens.

66. It further submits that, following withdrawal, the Third, Ninth and Tenth Respondents are no longer bound by ECOWAS instruments and fall outside the jurisdiction of this Court.

67. The First Respondent argues that it is neither legally nor practically feasible to compel non-member States to adopt or implement contingency measures for the protection of ECOWAS citizens.

68. It maintains that the Applicant's claims are speculative and premature, as they are based on anticipated rather than actual violations of rights.

69. Accordingly, the First Respondent contends that the reliefs sought, particularly those directed at the withdrawn States, are incapable of being granted and therefore divest the Court of jurisdiction.

X. JURISDICTION

General Principles

70. The Court notes that the Applicant, in seizing this Court, invoked Article 9 of the Supplementary Protocol (A/SP.1/01/05) amending the Protocol of the Court, without specifying the precise sub-paragraph upon which jurisdiction is grounded. Notwithstanding this omission, it is settled that the invocation of Article 9 obliges the Court to identify the applicable head or heads of jurisdiction in light of the claims presented.

71. It is trite that jurisdiction constitutes a threshold issue which the Court must determine prior to examining the merits of any application, whether *suo motu* or upon objection by a party. In the instant case, the preliminary objection raised by the 1st Respondent necessitates a determination of the Court's competence both *ratione materiae* and *ratione personae*.

A. Subject Matter Jurisdiction (*Ratione Materiae*)

72. The subject matter jurisdiction of this Court is primarily derived from Article 9 of the Supplementary Protocol. From a careful reading of the Application, he claims disclose a dual character, namely: (i) an alleged failure by the Respondents to comply with obligations under ECOWAS law by not establishing a contingency framework to safeguard Community citizens; and (ii) an alleged violation of the human rights of ECOWAS citizens arising from such omission.

73. In this regard, the Court finds Articles 9(1)(d) and 9(4) particularly relevant and instructive:

- Article 9(1)(d) confers jurisdiction in cases of failure by Member States to honour obligations under ECOWAS legal instruments;
- Article 9(4) empowers the Court to determine cases involving alleged violations of human rights within Member States.

74. The Court recalls its settled jurisprudence that ECOWAS legal instruments encompass the Revised Treaty, its Protocols, Conventions, and all subsidiary instruments adopted by the Community. Accordingly, proceedings are properly brought before this Court where there is an alleged failure to comply with such instruments. See MOUSSA LEO KEITA V REPUBLIC OF MALI (2007) CCJELR.

75. The Court has further affirmed that its jurisdiction extends to determining whether Member States or Community institutions have complied with their obligations under ECOWAS law. See ZADI PHILIPE V AUTHORITY OF HEADS OF STATE AND GOVERNMENT JUDGMENT NO: ECW/CCJ/JUD/05/25 (Unreported); BACAR BAIYE V ECOWAS AUTHORITY & ECOWAS COMMISSION JUDGMENT NO: ECW/CCJ/JUD/13/22 (Unreported).

76. With respect to human rights claims, it is well established that a mere allegation of a violation suffices to trigger the Court's jurisdiction, independent of the merits of the claim. See COUNSELLOR MUHAMMAD KABINEH JA'NEH V REPUBLIC OF LIBERIA JUDGMENT NO: ECW/CCJ/JUD/28/20 (Unreported).

77. In light of the foregoing, the Court finds that it is duly vested with jurisdiction *ratione materiae* to entertain the present Application.

B. Personal Jurisdiction (*Ratione Personae*)

78. The determination of the Court's jurisdiction *ratione personae* in the present Application arises in two respects: (i) whether the 1st Respondent, the Authority of Heads of State and Government, is amenable to the Court's jurisdiction in respect of human rights claims; and (ii) whether the objection raised concerning the status of the 3rd, 9th, and 10th Respondents, following their withdrawal from

ECOWAS, affects the competence of the Court. These issues shall be addressed *seriatim*.

(i) Personal Jurisdiction over the First Respondent

79. The Court observes that the First Respondent, the Authority of Heads of State and Government, has been sued jointly with Member States on grounds of alleged violations of human rights and non-compliance with Community law.

80. While the Court affirms its jurisdiction over human rights violations under Article 9(4), it reiterates that such jurisdiction is exercisable only against Member States, being entities that have ratified the relevant human rights instruments and within whose territories such violations are alleged to occur. See Article 2(2) of the Revised Treaty; MRS. SARAH KINGSLEY ODORO V ECOWAS COMMISSION & 2 ORS JUDGMENT NO:ECW/CCJ/JUD/06/21(Unreported).

81. The Authority of Heads of State and Government, though a principal organ of the Community, is neither a Member State nor a direct bearer of obligations under the African Charter on Human and Peoples' Rights. Consequently, it lacks the requisite legal personality to be held liable for alleged human rights violations before this Court. See *SERAP & 10 ORS V FEDERAL REPUBLIC OF NIGERIA* (2014) CCJELR; ZADI PHILIPE V AUTHORITY OF HEADS OF STATE AND GOVERNMENT (ECW/CCJ/JUD/05/25).

82. Accordingly, the Court finds that it lacks jurisdiction *ratione personae* over the First Respondent in respect of human rights claims. However, this limitation does not extend to claims relating to compliance with Community law, in respect of which the First Respondent remains amenable to the jurisdiction of the Court.

(ii) Personal Jurisdiction over the 3rd, 9th, and 10th Respondents

Submissions of the 1st Respondent

83. The First Respondent raises a Preliminary Objection to the Court's jurisdiction over the Third, Ninth and Tenth Respondents, on the ground that they have formally withdrawn from ECOWAS and are therefore no longer subject to the jurisdiction of this Court.

84. It contends that their continued inclusion renders the suit improperly constituted and that the Court cannot exercise jurisdiction over entities that are no longer Member States or compel them to discharge obligations arising under ECOWAS instruments.

Applicant's Response

85. In response, the Applicant submits that the Application was instituted on 28 January 2025, prior to the effective withdrawal of the Third, Ninth and Tenth Respondents, and that, at the material time, the said States remained Member States subject to the jurisdiction of the Court.

Analysis of the Court

86. The Court has carefully considered the submissions of the parties with respect to the effect of the withdrawal of the Third, Ninth and Tenth Respondents on its jurisdiction. It notes, in particular, the undisputed fact that the Application was lodged prior to the effective date of the said withdrawal.

87. In this regard, the Court affirms the settled principle that jurisdiction is determined at the time of seisin. Where a Court is validly seized of a matter, subsequent events, including the withdrawal of a State from a treaty regime, do not, in themselves, divest the Court of jurisdiction over the dispute.

88. The Court is further guided by comparative jurisprudence, notably that of the African Court on Human and Peoples' Rights, which has upheld its jurisdiction in circumstances where an application was filed prior to the effective withdrawal

of a State's declaration accepting the Court's jurisdiction. See LÉON MUGESERA V REPUBLIC OF RWANDA, Application No. 012/2017, Judgment of 27 November 2020.

89. Applying these principles to the present case, the Court finds that, at the time of the institution of these proceedings, the Third, Ninth and Tenth Respondents were still Member States of ECOWAS and subject to the jurisdiction of this Court.

90. Accordingly, the Court holds that it retains jurisdiction *ratione personae* over the Third, Ninth and Tenth Respondents in respect of the present Application.

XI. ADMISSIBILITY

A. *Locus Standi* of the Applicant to Maintain Claims Based on Community Law

91. The Court recalls that the Applicant invoked Articles 9 and 10 of the Supplementary Protocol (A/SP.1/01/05), without specifying the precise sub-provisions grounding its access to the Court. While Article 9 concerns jurisdiction, Article 10 governs access. Having established its jurisdiction, the Court must now determine whether the Applicant possesses the requisite standing under Article 10 to maintain the present claims.

76. In this regard, the Court shall examine the reliefs sought, not on their merits, but for the limited purpose of determining admissibility.

77. The Court observes that Reliefs 1, 2, and 3 are intricately connected in substance and shall be considered jointly. These reliefs essentially seek declarations and orders compelling the Respondents to negotiate and establish a contingency framework to safeguard the rights of ECOWAS citizens in light of the withdrawal of certain Member States.

78. Notwithstanding their formulation in human rights terms, the Court finds that these reliefs are, in substance, directed at ensuring compliance with

obligations arising under Community law, particularly in relation to inter-State cooperation, transitional arrangements, and policy coordination within the ECOWAS framework.

79. The Court notes that such matters fall within the institutional competence of the Authority of Heads of State and Government and other Community organs, as established under the Revised Treaty and relevant Protocols.

80. The Court recalls that access to it is governed by Article 10 of the Supplementary Protocol, which exhaustively enumerates the categories of persons entitled to institute proceedings.

81. Under Articles 10(a) and (b), actions relating to the enforcement of Community law obligations or the legality of acts of Community institutions may be instituted only by Member States or designated Community institutions.

82. Furthermore, Article 10(c) permits access by corporate bodies only where the act or omission of a Community official has violated their individual rights. This is not applicable in the present case, as no such violation has been alleged.

83. While Article 10(d) allows individuals and corporate bodies to institute actions alleging human rights violations, this head of access does not extend to claims whose substance is the enforcement of Community obligations between States or institutions.

84. The Court reiterates its settled jurisprudence that actions for failure by a Member State to fulfil its obligations under Community law may only be brought by a Member State or the President of the Commission. See KARIM MEISSA WADE V REPUBLIC OF SENEGAL (2013) CCJELR; ALTERNATIVE CITOYENNE V REPUBLIC OF BENIN (2015) CCJELR.

85. Accordingly, the Court finds that the Applicant, being a non-governmental organization and not falling within the categories enumerated under Article 10(a) and (b), lacks locus standi to maintain claims founded on alleged breaches of Community law obligations.

86. The Court therefore holds that the Application, as far as it relates to the enforcement of Community law obligations against the Respondents, is inadmissible for want of *locus standi*.

B. *Standing of the Applicant as an NGO in Human Rights Claims*

87. The Court observes that Reliefs iv and v are intricately connected in substance and shall be considered jointly for the purpose of determining admissibility. These reliefs seek orders directed at ensuring respect for the human rights of ECOWAS citizens within the territories of both the withdrawing States and the remaining Member States during the transitional period.

85. From the tenor of these reliefs, the Court finds that the Applicant grounds its claims on the protection of human rights within the meaning of Article 10(d) of the Supplementary Protocol (A/SP.1/01/05), which provides that access to the Court is open to individuals for alleged violations of their human rights, subject to the conditions that the application is not anonymous and is not pending before another international tribunal.

86. The Court recalls that, in addition to jurisdiction, an application alleging human rights violations must satisfy the admissibility criteria under Article 10(d), namely: (a) the Applicant must not be anonymous; (b) the matter must not be pending before another international court; and (c) the Applicant must demonstrate sufficient standing in relation to the alleged violation. See SERAP V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/08/21 (Unreported).

87. In the instant case, the Court notes that the Application is not anonymous. The Applicant is a duly registered non-governmental organization, and it has produced a certificate of incorporation establishing its juristic personality. Furthermore, there is no evidence that the subject matter of this Application is pending before another international court or tribunal.

88. The Court must therefore determine the capacity in which the Applicant brings the present action, whether in its own right, in a representative capacity, or as a public interest litigant.

89. The facts do not disclose that the Applicant brings this action in its personal capacity. The First Respondent, however, contends that the Applicant lacks standing on the ground that it has failed to produce a mandate authorizing it to act on behalf of identifiable victims.

90. The Court recalls that the requirement of a mandate arises only where an applicant purports to act in a representative capacity on behalf of specific individuals. See INCORPORATED TRUSTEES OF CENTRE FOR PEACE AND CONFLICT MANAGEMENT IN AFRICA & ORS V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/20/22 (Unreported).

91. In the present case, the Applicant has expressly instituted this action as a public interest litigant. Consequently, no mandate from individual victims is required.

92. The Court now turns to the objection raised by the Respondents that the Applicant's constitutive documents do not confer the capacity to institute proceedings of the nature presently before it.

93. The Court recalls its settled jurisprudence that admissibility is determined, *inter alia*, by whether the Applicant has access to the Court and the requisite legal capacity to institute proceedings. See ESTATE OF MBAKPENU

ZAMBER & ORS V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/28/19 (Unreported).

94. It is well established that access to this Court extends to both natural and legal persons, provided they possess legal personality under national law and can justify their interest in the subject matter. See CENTRE FOR DEMOCRACY AND DEVELOPMENT & ANOR V PRESIDENT MAMADOU TANDJA & ANOR (2011) CCJELR; ALHAJI MOHAMMED IBRAHIM HASSAN V GOVERNOR OF GOMBE STATE & ANOR (2012) CCJELR.

95. The Court has further recognised that non-governmental organizations may institute actions in the public interest in matters concerning human rights, provided they are duly registered under the laws of a Member State. See INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVE V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/16/20 (Unreported).

96. In the present case, the Applicant has established its legal personality by producing its certificate of incorporation. It has further asserted that its objectives include promoting awareness of ECOWAS law and evaluating compliance with Community obligations.

97. The Court has examined the constitutive documents of the Applicant, as placed before it by the First Respondent, and notes that its objectives include: (i) promoting awareness of ECOWAS law and jurisprudence; (ii) educating citizens and policymakers on rights and obligations under ECOWAS law; and (iii) assessing governmental conduct against ECOWAS legal standards.

98. The Court finds that these objectives are intrinsically linked to the promotion, protection, and enforcement of Community norms, including human rights standards.

99. The Court further observes that the promotion of legal awareness and accountability within the ECOWAS framework necessarily entails engagement with institutional mechanisms, including recourse to judicial proceedings where appropriate.

100. Accordingly, the institution of the present action by the Applicant cannot be regarded as ultra vires its mandate, but rather as a legitimate extension of its stated objectives.

101. The Court recalls that a party alleging lack of standing bears the burden of substantiating such objection with credible evidence. Mere assertions, unsupported by proof, are insufficient. See GABRIEL INYANG & ANOR V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/20/18 (Unreported); LT. COL. SILAS JOCK SANTOI V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/01/19 (Unreported).

102. In the instant case, the Respondents have failed to discharge this burden. Their objections are not supported by sufficient evidence capable of displacing the Applicant's demonstrated legal capacity.

103. Considering the foregoing, the Court finds that the Applicant, as a duly registered non-governmental organization, has the requisite standing to institute the present action in the public interest in respect of alleged human rights violations.

C. Prerequisites for Initiating Public Interest Litigation

104. Having established that the Applicant possesses the requisite standing to access this Court as a public interest litigant, it remains necessary to determine whether the conditions governing the admissibility of such actions have been satisfied.

108. The Court recalls its settled jurisprudence that public interest litigation must satisfy a cumulative three-prong test, namely: (i) the rights allegedly violated must be of a public character, capable of being held collectively rather than individually; (ii) the reliefs sought must be directed toward the protection of the public interest, rather than the personal interest of the Applicant; and (iii) the victims, though not individually identified, must be sufficiently ascertainable or capable of being envisaged by the Court. See PATRICK EHOLOR V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/51/23 (Unreported).

109. Applying the above criteria to the present case, the Court finds that the first requirement has not been satisfied. The Applicant has failed to identify, with sufficient precision, the specific rights alleged to have been violated. The reliefs sought are framed in broad and generalized terms, seeking the protection of the human rights of all ECOWAS citizens without delineating the nature or scope of the alleged violations.

110. The Court observes that, while Member States bear a general obligation to respect and ensure human rights, an Applicant must demonstrate, at a minimum, the existence of a concrete or imminent violation. In the instant case, no such violation has been established.

111. The Court further notes that the allegations advanced by the Applicant are framed in *abstracto* and are not supported by evidence demonstrating a real and imminent risk of harm. In this regard, the Court agrees with the Respondents that the claims are speculative.

112. It is the settled position of this Court that where an Applicant alleges a prospective violation, it bears the burden of establishing the existence of a real and imminent risk. Mere assertions of violations, without credible and persuasive evidence, are insufficient to ground a finding of a breach. See

ALEX NAIN SAAB MORAN V REPUBLIC OF CABO VERDE JUDGMENT NO: ECW/CCJ/JUD/07/21 (Unreported); DR. JACOB ABDULLAHI & ORS V FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO: ECW/CCJ/JUD/18/22 (Unreported).

113. The Court has consistently held that allegations of human rights violations must be supported by facts capable of establishing the claims with a sufficient degree of certainty or, at the very least, a high probability of occurrence. Mere allegations, without substantiation, cannot sustain a claim. See ASSIMA KOKOU INNOCENT & ORS V REPUBLIC OF TOGO (2013) CCJELR.

114. With respect to the third requirement, the Court finds that the class of victims is framed in overly broad and indeterminate terms. The reference to "*all ECOWAS citizens*" residing in or transiting the territories of the withdrawing States lacks the specificity required to enable the Court to envisage the affected group with sufficient precision.

115. The Court reiterates that, even in public interest litigation, the category of victims must be sufficiently defined to permit meaningful judicial assessment and, where necessary, the formulation of appropriate remedies. See INCORPORATED TRUSTEES OF PRINCE AND PRINCESS CHARLES OFFOKAJA FOUNDATION V FEDERAL REPUBLIC OF NIGERIA JUDGGMENT NO: ECW/CCJ/JUD/06/25 (Unreported).

116. In light of the foregoing, the Court finds that the Applicant has failed to satisfy the cumulative requirements for the institution of public interest litigation. The absence of a clearly defined right, a demonstrable violation or imminent risk, and an ascertainable class of victims renders the Application inadmissible.

117. Accordingly, the Application is hereby dismissed.

XII. COSTS

118. The Court recalls the provisions of Article 66 of the Rules of the Court, which provide that a decision as to costs shall be made in the final judgment and that the unsuccessful party may be ordered to bear the costs.

119. In the instant case, the Court has declared the Application inadmissible in its entirety. Ordinarily, this would warrant an order that the unsuccessful party bear the costs of the proceedings.

120. However, the Court notes that the present Application was brought in the context of public interest litigation, raising issues relating to the protection of human rights within the ECOWAS Community framework. The Court further observes that such actions, even where unsuccessful, contribute to the development and clarification of Community law and jurisprudence.

121. In the circumstances, and in the exercise of its discretionary power under Article 66 of the Rules, the Court considers it equitable that each party shall bear its own costs.

122. Accordingly, the Court orders that each party shall bear its own costs.

XIII. OPERATIVE CLAUSE

123. For the reasons stated above, the Court sitting in public after hearing both parties:

As to jurisdiction:

i. **Declares** that it has jurisdiction *ratione materiae* to entertain the Application;

ii. **Declares** that it lacks jurisdiction *ratione personae* over the 1st Respondent in respect of the human rights claims.

iii. **Declares** that it has jurisdiction *ratione personae* over the 3rd, 9th, and 10th Respondents in respect of the present Application.

As to admissibility:

iv. **Declares** the Application inadmissible as far as it relates to claims founded on alleged breaches of Community law obligations.

v. **Declares** the Application inadmissible in its entirety for failure to satisfy the conditions governing public interest litigation.

vi. **Dismisses** the Application.

vii. **Orders** that each party shall bear its own costs.

As to costs

viii. Orders the Parties to bear their own costs.

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

Hon. Justice Dupe **ATOKI** .....

Hon. Justice Edward Amoako **ASANTE** .....

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

Done in Conakry, this 18th day of May 2025 in English and translated into French and Portuguese.