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



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

In the Matter of

CASSANDRA GARBER AND OTHERS

(APPLICANTS)

v

REPUBLIC OF SIERRA LEONE

(RESPONDENT)

App No. **ECW/CCJ/APP/22/21;** *Judgment No*. **ECW/CCJ/JUD/12/25**

JUDGMENT

ABUJA

17 MARCH 2025

THE COMMUNITY COURT OF JUSTICE OF THE
ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)
HOLDEN AT ABUJA, NIGERIA

App No. **ECW/CCJ/APP/22/21;** *Judgment No.* **ECW/CCJ/JUD/12/25**

CASSANDRA GARBER AND OTHERS -APPLICANTS

AND

REPUBLIC OF SIERRA LEONE -RESPONDENT

COMPOSITION OF THE COURT:

Hon. Justice Ricardo C.M. **GONÇALVES** -Presiding Judge
Hon. Justice Dupe **ATOKI** - Member
Hon. Justice Edward Amoako **ASANTE** - Judge Rapporteur

ASSISTED BY:

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

REPRESENTATION OF PARTIES:

Maurice R. Garber, Esq. - Counsel for APPLICANTS

Soniade Barlatt Foh, Esq
Olive B.A. Horton, Esq -Counsel for RESPONDENT

I. JUDGMENT

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

II. DESCRIPTION OF THE PARTIES

2. Applicants, Cassandra Garber, Samuel Valcarcel, Ola Asgill, Prof. K. Koso-Thomas, Sir Ernest Dunstan Morgan, and others listed in Annex A to the Application including the Krio Descendants Yunion (KDY Sierra Leone), Krio Descendants Union (UK, USA and Nigeria Chapters), the Anglican Diocese of Freetown and the North, and the Methodist Church, Sierra Leone are Sierra Leonean citizens and civil society organisations.

3. Respondent, the Republic of Sierra Leone, is an ECOWAS Member State and a party to the African Charter on Human and Peoples' Rights 1981 (African Charter).

III. INTRODUCTION

Subject Matter of the Proceedings

4. The Application alleges that Krio citizens of Sierra Leone, descendants of freed African slaves resettled in the country before and during colonial times, have faced ongoing discrimination in land acquisition and ownership, along with other human rights violations, including restrictions on freedom of movement, residence, and association. The Applicants seek reliefs, including a declaration that Sections 3 and 4 of the Provinces Land Act of 1960 (Sierra Leone) violate Articles 2, 7(1), 10(1), 12, and 19 of the African Charter.

IV. PROCEDURE BEFORE THE COURT

5. Applicants commenced this proceeding by an Application dated 4 June 2021 which was filed at the Registry of the Court on 7 June 2021 together with an attached List of Authorities. The Application and its annexes were served electronically on the Respondent on 9 June 2021.

6. On 8 November 2021, Applicants filed an application for Default Judgment which was served on the Respondent the same day.

7. At a session of the Court on 6 May 2024, the Applicants and Respondent were both represented in Court by counsel. Respondent's counsel informed the Court that a new legislation passed since 2022 had addressed the matter raised in the Application and sought the Court's direction on how to proceed in light of the new law. However, the Applicants' counsel insisted that the legislation did not address "the issue of the constitutional tort of the government of Sierra Leone over the last five decades" and, therefore, there was still a live, unresolved dispute. The Court heard Applicant's counsel on the application for default judgment and adjourned for deliberation and judgment.

8. Given the potential relevance and impact of the legislation referenced during the proceedings of 6 May 2024 on the claims advanced in the Application, on 22 November 2024, the Court, acting under Article 16 of the 1991 Protocol of the Court (as amended), requested the parties to provide the said legislation and other related material that may shed light on the issues before it.

9. On 27 November 2027, the Applicants and the Respondent respectively submitted, in response to the Court's request, the Customary Land Rights Act 2022 and the National Land Commission Act 2022, both being laws passed by the Government of Sierra Leone in 2022 to regulate lands and related matters.

V. CASE OF THE APPLICANT

A. Summary of Facts

10. Applicants say that in the English case of *Somerset v Stewart* (1772) 98 ER 499, Chief Justice Lord Mansfield ruled that a slave became free upon stepping on English soil, effectively liberating all slaves in England. However, the deplorable conditions for many of these freed individuals sparked public concern, leading to the creation of "The Black Poor Committee." This Committee advocated for resettling the freed slaves back in Africa, resulting in the establishment of the "Settlement of Sierra Leone."

11. In February 1787, the first group of freed slaves left for Sierra Leone on the ship *Nautilus*. On 11 June 1787, the British government signed a treaty with King Tom to cede some coastal land for the freed slaves. This led to the founding of the "Province of Freedom", later known as Freetown. This treaty was followed by another agreement in 1788 with King Naimbana to further secure land for the community of the freed slaves and their descendants.

12. Applicants say that freed slaves from Canada (the Nova Scotians) and Jamaica (the Maroons) later joined the Sierra Leone settlers. In 1791, the Sierra Leone Company was created to manage the Settlement's trade and property affairs. With the formal abolition of the slave trade by Britain in 1807, the Sierra Leone Transfer Act transferred the company's land and rights to the British Crown, officially making Freetown a Crown Colony on 1 January 1808.

13. Between 1808 and 1864, about 84,000 African slaves, freed from intercepted slave ships, were brought to Freetown as "Liberated Africans." These

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individuals represented various African tribes, with the Yorubas and Igbos being majority of those rescued.

14. By the early 1900s, the freed slaves and their descendants, now known as the Krios, had developed a distinct ethnic identity with a unique language, culture, and traditions. They played a significant role in West Africa, including staffing colonial civil services and spreading Christianity as missionaries.

15. Meanwhile, as part of the "Scramble for Africa," the British expanded beyond the Colony of Freetown by the end of the 19th Century. In 1895, they declared the area surrounding Freetown as a Protectorate, formalizing their control over Sierra Leone's hinterland.

16. Applicants state that in the Protectorate, the British employed a system of indirect rule. They appointed District Commissioners to oversee "provinces" but left local tribal chiefs in the provinces with significant authority over their communities. Thus, while the chiefs maintained control over their tribes, they were supervised by the Commissioners.

17. According to Applicants, land ownership in the Protectorate and its provinces remained under the control of tribal chiefs, though the colonial government made laws for the Protectorate. The Krios were excluded from the Protectorate administration and were prohibited from owning land there, unlike in the Colony where land was freely transferable under English common law.

18. Within the Freetown Colony, Krios were recognized as British subjects, whereas people in the Protectorate were considered British Protected Persons. Thus legally, the Protectorate and the Colony were treated as separate and distinct. This distinction was further deepened by the 1927 Protectorate Land

Ordinance. The Ordinance primarily regulated land rights for non-natives in the Protectorate by affirming the authority of tribal chiefs over lands and specifying how non-natives could obtain land.

19. Applicants say that for purposes of the Ordinance, Krios were categorised as non-natives thereby restricting their rights to acquire lands in the Protectorate. Therefore, the Krios faced the same land ownership restrictions as British expatriates in Sierra Leone. In 1960, the Ordinance was re-enacted as the Provinces Land Act, with only minor changes, such as renaming "Protectorate" to "Provinces".

20. Applicants say that on 28 October 2003, Garber & Co. informed the Attorney General's Office that the Provinces Land Act of 1960 was unconstitutional and requested intervention to avoid legal action.

21. In 2005, Applicants state that they attempted to file a constitutional claim with the Sierra Leone Supreme Court but was unsuccessful due to a lack of judicial quorum following the country's civil war. They continued efforts to have the statute repealed through engagements with stakeholders and land ministers, but without success.

22. On 27 February 2020, Garber & Co., acting for the Applicants, served a Notice of Claim to the Attorney General's Office under the State Proceedings Act 2000, asking for the repeal of the Provinces Land Act.

23. On 14 August 2020, a letter was sent to the new Attorney General, informing him of previous correspondence with his predecessor and requesting cooperation to reach an amicable settlement. This letter warned of an impending

lawsuit. After receiving no response, the Applicants state that they filed an Originating Motion against the Government and the Minister of Lands with the Supreme Court on 28 August 2020.

24. On 30 October 2020, the Attorney General was reminded that no response had been filed, and the Applicants urged either litigation or settlement, as the Government was in default.

25. On 26 February 2021, Applicants say that another reminder was sent, warning that the Applicants would seek a default judgment if no Answer was filed. On the same day, Garber & Co. requested the Chief Justice to form a panel to hear the case while sending another letter to the Registrar of the Supreme Court requesting the issuance of a certificate of non-compliance against the Government.

B. Pleas in Law

26. Applicants submit the following pleas in law:

(a) That the provisions of the Provinces Land Act which prevents Krio citizens of Sierra Leone from having the same land rights as other citizens are discriminatory and violates Article 2 of the African Charter.

(b) That the Provinces Land Act which prohibits Krio citizens of Sierra Leone from associating with their compatriots in the Provinces except with the permission of a tribal chief violates the freedom of association guaranteed under Article 10 of the African Charter.

(c) That the Provinces Land Act which prevent Krio citizens of Sierra Leone from occupying any land in the Provinces except with the consent of a tribal chief is inconsistent with the right to freedom of movement and residence guaranteed by Article 12 of the African Charter.

(d) That the discriminatory practices to which Krio citizens of Sierra Leone have been subjected violate Article 19 of the African Charter which prohibits the domination of a people by another.

C. Reliefs Sought

27. The Applicants request the Court for the following reliefs:

(a) A declaration that sections 3 and 4 of the Provinces Land Act 1960 are inconsistent with Article 2 and 19 of the African Charter on Human and Peoples' Rights in that the [Applicants] and members of their tribe, to wit, the Krios have been subject to unequal treatment, domination, and discrimination on the basis of their place of origin and tribe in violation of said Article 2 and Article 19 respectively which mandates that every person shall be entitled to the enjoyment of rights and freedoms without distinction of any kind "such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status" and "shall have the same rights … before the Law".

(b) A declaration that sections 3 and 4 of the Provinces Land Act 1960 are inconsistent with Article 10 (1) of the African Charter on Human and Peoples' Rights in that the [Applicants], and the Krios have been subject to restrictions on their freedom of association as the offending statute precludes them [from] freely associating with other persons, tribes, and communities normally resident in the Provinces in Sierra Leone.

(c) A declaration that sections 3 and 4 of the Provinces Land Act 1960 are inconsistent with Article 12 of the African Charter on Human and Peoples' Rights in that the [Applicants] and the Krios have been subject to restrictions on their freedom of movement and residence within the borders of Sierra Leone as the offending statute specifically places restrictions on the rights of Krios to reside and move freely in the Provinces.

(d) A declaration that the rights of the [Applicants] and the Krios in general have been violated as a result of the failure to be heard by the Supreme Court of Sierra Leone which is a violation of Article 7 (1) of the African Charter which mandates that every person should have the right to appeal to competent national organs against acts violating his/her fundamental human rights as recognized and guaranteed by conventions, laws, regulations and customs in force.

(e) A declaration that the Provinces Lands Act - Cap. 122, Cap. 60 of the Laws of Sierra Leone, Act No. 46 of 1961, and Act No. 29 of 1972 all of which contain supporting or definitional statutory sections to the Provinces Lands Act 1960 are inconsistent with Articles 2, 10, 12 and 19 of the African Charter on Human and Peoples' Rights to the extent that they classify Krios as "Non-Natives" in their own country, illegally placing them in the same category as those persons of European or Asiatic descent thus treating them unequally and unfairly.

(f) An order in the Court's inherent discretion nullifying, modifying, qualifying and declaring as unconstitutional the pertinent sections of the Provinces Lands Act and the definitional sections referred to in paragraph

5 above and deleting from their ambit their application to persons "whose principal place of residence is in the Colony" so as to ensure that the offending statutes are not in conflict with Articles 2, 10, 12 and 19 of the African Charter on Human and Peoples' Rights.

(g) Damages in favour of the [Applicants] personally and damages in favour of the Krio Community in general against the [Respondent] in such amount as this Court may deem just for the deprivation of property rights, psychological harm, constitutional and fundamental rights violations, loss of business and economic opportunities suffered by the [Applicants] and the Krio Community as a whole from 1961 to date.

(h) An order granting such other reparations and/ or damages as the Court may deem just and proper for the overt discrimination, violation of the aforementioned provisions of the African Charter and for the loss of business and economic opportunities in the Provinces from 1961 to date.

(i) Costs.

(j) Such other and further relief as this Court may deem just and proper.

VI. CASE OF THE RESPONDENT

28. Despite service of the initiating Application and other processes filed by the Applicant on the Respondent, the Respondent did not file a Statement of Defence or other process in response to the action.

VII. APPLICATION FOR DEFAULT JUDGMENT

29. Given the default of the Respondent to file a defence or other response to the case consistent with the Rules of the Court, the Applicant, on 8 November 2021, filed an application for default judgment which was served on the Respondent

the same day. However, the Respondent did not file any response or reaction to the default judgment application.

30. At a session of the Court on 6 May 2024, the Applicants and Respondent were both represented in Court by counsel. The Respondent's counsel informed the Court of a new law addressing the issues raised in the Application and sought the Court's direction on how to proceed. However, the Applicants' counsel insisted that since the new law does not address the issue of constitutional tort against the Krios, there was still a live, unresolved dispute before the Court. He therefore moved the application for default judgment.

31. However, given the potential relevance and impact of the legislation mentioned during the proceedings of 6 May 2024 on the Applicants' claims, on 22 November 2024, the Court, acting under Article 16 of its Protocol 1991 (as amended), requested the parties to provide the said legislation and other related materials that may shed light on the issues before the Court.

32. In response to the Court's request, the Applicants and the Respondent respectively submitted the Customary Land Rights Act 2022 and the National Land Commission Act 2022. Both Acts are laws passed by the Government of Sierra Leone in 2022 to regulate lands and related matters. The Court will take account of these laws in its assessment of the request for default judgment.

33. Article 90(4) of the Rules of the Court which governs default judgments states:

> "Before giving judgment by default the Court shall, after considering the circumstances of the case consider:
>
> (a) Whether the application initiating proceedings is admissible
> (b) Whether the appropriate formalities have been complied with, and
> (c) Whether the application appears well founded".

34. In *Chude Mba v. Republic of Ghana* [2013] CCJELR 335 and *Chukwuemeka Edeh v Federal Republic of Nigeria* (ECW/CCJ/JUD/36/24), the Court has held that Article 90(4) requires it to ensure that: (a) it has jurisdiction over the matter; (b) the Initiating Application is admissible; (c) all formalities, including notice to the Respondent, have been complied with; and (d) the Initiating Application is well-founded. The Court will now examine each of these requirements in turn.

VIII. JURISDICTION OF THE COURT

35. Under Article 9(4) of the Court's Protocol, the Court has jurisdiction to determine cases of human rights violations that occur in Member States of the Community. This jurisdiction is invoked when an application alleges that human rights violations have occurred in a member state and that the state is responsible for those violations, subject to a determination on the merits. (See *Mohammed Morlu v Republic of Sierra Leone* [ECW/CCJ/JUD/04/24], para 29).

36. The Applicants have alleged that the Krio community in Sierra Leone have been subjected to historic and ongoing discrimination and other violations of their rights in landownership and property acquisition in certain parts of the country. Because these allegations implicate the Respondent's human rights obligations under the African Charter, the Court concludes that it has jurisdiction under Article 9(4) of the Protocol of the Court.

IX. ADMISSIBILITY OF THE CASE

37. Article 10(d) of the Court's Protocol requires that an application alleging human rights violations must satisfy three main admissibility criteria: (a) the applicant's victim status or standing, (b) the non-anonymity of the application;

and (c) the non-pendency of the matter before another international court or tribunal. (*Aziagbede Kokou & Others v Republic of Togo* [2013] CCJELR 167, para 18).

38. Regarding standing, the Court notes that the lead Applicant, Cassandra Garber, has brought the action on her on behalf as a member of the Krio community and on behalf of the members of the Krio Descendants Yunion (KDY Sierra Leone) of which she is the President. She has annexed to the Application the Constitution and Certificate of Incorporation of the Association as well as an affidavit deposing to her representative capacity. The entire list of individuals, families, and groups of the Krio community both home and abroad on whose behalf the action is brought are annexed to the affidavit.

39. Under Article 10(d) of the Court's Protocol, an applicant has standing not only if they are adversely affected by the Respondent's conduct constituting the alleged human rights violations, but also if they have a demonstrable authority to sue on behalf of other victims in a representative capacity. (See *Bakary Sarre and 28 Others v Mali* [2011] CCJELR 57, para 37). Given that the lead Applicant is suing alongside the other Applicants as personally affected members of the Krio community and on behalf of numerous members of Krio community associations, the Court holds that the Applicants have standing.

40. The Court also notes that the application is not anonymous and there is no evidence that the Applicants have submitted the same claim to another international court. Accordingly, the Application satisfies all the admissibility requirements of Article 10(d) of the Court's Protocol.

X. COMPLIANCE WITH FORMALITIES

41. In *Chude Mba v. Republic of Ghana* [2013] CCJELR 335 (paras 70-74) and *Chukwuemeka Edeh v Federal Republic of Nigeria* (ECW/CCJ/JUD/36/24, para 29), the Court held that the two key formalities that need to be satisfied for the grant of an application for default judgment are that: (i) the initiating Application must have been served on the Respondent to enable it to present a defence; and (ii) the application for default judgment must also have been served on the Respondent for a chance to respond.

42. In this case, it has been established that the initiating Application was served on the Respondent on 9 June 2021, and the application for default judgment was also served on the Respondent on 8 November 2021. Under the Rules of the Court, the Respondent had the opportunity to respond to these processes but failed to do so. In the circumstances, the Court holds that the essential formalities required for a default judgment have been satisfied.

XI. MERITS OF APPLICATION FOR DEFAULT JUDGMENT

43. As the Court has previously established, an application for default judgment may be granted only if the Initiating Application is well-founded in law and fact. (See *Chude Mba v. Republic of Ghana* [2013] CCJELR 335, paras 75 & 102 and *Chukwuemeka Edeh v Federal Republic of Nigeria* ECW/CCJ/JUD/36/24, paras 31-32). This simply means that "the Court must attain the same degree of certainty as in any other case that the claim of the party appearing is sound in law, and, so far as the nature of the case permits, that the facts on which it is based are supported by convincing evidence." (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States) (Merits; Judgment)* [1986] ICJ Reports 14 (para 28).

44. Having regard to these standards, the Court will now assess the substantive claims submitted by the Applicant which are:

a. That the provisions of the Provinces Land Act and other statutes which prevent Krio citizens of Sierra Leone from having the same land rights as other citizens are discriminatory and violate Articles 2 and 19 of the African Charter.

b. That provisions of the Provinces Land Act and other statutes which prohibit Krio citizens of Sierra Leone from associating with their compatriots in the Provinces except with the permission of a tribal chief violates the freedom of association guaranteed under Article 10 of the African Charter.

c. That provisions of the Provinces Land Act and other statutes which prevent Krio citizens of Sierra Leone from occupying any land in the Provinces except with the consent of a tribal chief are inconsistent with the freedom of movement and residence guaranteed by Article 12 of the African Charter.

(a) Alleged Discrimination Against Krios Contrary to Articles 2 and 19 of the African Charter

i. Submissions of the Applicant

45. On this issue, the Applicants submit that Article 2 of the African Charter provides that every individual is entitled to enjoy rights in the Charter without any distinction on grounds including race, ethnic origin, colour, language, or national and social origin. Similarly, Article 19 of the African Charter provides

that "All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another."

46. According to Applicants, section 3(1) of the Provinces Land Act provides that a non-native shall not occupy any land in the Provinces of Sierra Leone except with the prior consent of the relevant Tribal Authority. Further, section 4 of the Act provides that the only interest a non-native may acquire in a land in the Provinces is a lease for 50 years, which may be renewed for a further 21 years. The Applicants argue, that because Krios are defined as non-natives under the Protectorate Ordinance 1933 (CAP 60) and the Interpretation Act 1961 (Act 46), they are unable to enjoy the same land and property rights as other citizens of Sierra Leone who are classified as natives under the Respondent's laws. Accordingly, Applicants contend that the Respondent has through its laws and practices subjected Krios to discrimination in violation of Articles 2 and 19 of the African Charter.

ii. *Analysis of the Court*

47. The Court begins by recalling Article 2 of the African Charter which provides:

> Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

48. Article 19 of the African Charter on which Applicants also rely provides:

> All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

49. Article 2 of the Charter requires each state party to assure to all individuals within its territory, or subject to its jurisdiction, the equal enjoyment of all rights guaranteed in the Charter without any distinction, exclusion or prejudice arising

from or based on race, ethnicity, gender, or any of the other grounds prohibited by Article 2. Accordingly, the African Commission has noted that Article 2 "lays down a principle that is essential to the spirit of the Charter and is therefore necessary in eradicating discrimination in all its guises". (*Kwoyelo v Uganda*, Comm No. 431/12, 17 October 2018, para 158).

50. Similarly, Article 19(1) of the African Charter aims to ensure that the different sections of the national population including ethnic groups, indigenous peoples, and various religious, cultural, or linguistic communities "enjoy internal legal equality vis-à-vis other peoples and communities within the same state." (*Front for the Liberation of the State of Cabinda v Angola* [African Commission, Comm No. 328/06, 5 Nov. 2013], para 114).

51. Based on the foregoing, the Court considers that, as individuals, members of the Krio community in Sierra Leone are entitled to the same rights as other citizens of the country, without distinction based on ethnicity, language, religion, national or social origin, fortune, birth, or any other status, as provided in Article 2 of the African Charter. Similarly, as an identifiable community with a distinct culture, language, and shared historical or social background, they are entitled to internal legal equality relative to other ethnic or cultural groups within the country. Therefore, any law, policy, or practice maintained by the Respondent that denies the Krio community—whether as individuals or as a collective—equal enjoyment of the rights in the Charter with their fellow citizens violates Articles 2 and 19 of the African Charter.

52. In response to the Court's request for documents, the Applicants submitted the Customary Land Rights Act 2022, while the Respondent provided the National Land Commission Act 2022. Both laws were passed by the Respondent's Parliament on 8 August 2022. Having examined these laws, the Court observes

that Section 91 of the National Land Commission Act 2022 repeals in its entirety the Provinces Land Act (Cap 122), which forms the substratum of the Applicants' case.

53. The Court also observes that the Customary Land Rights Act 2022 has as its object "the protection of customary land rights, the elimination of discrimination under customary law and the management and administration of land subject to customary law." Section 3 of the Act provides, without any distinction, that a Sierra Leonean citizen "shall have the right to acquire any land that is subject to customary law." Section 4 of the Act also clearly provides, in relevant part, as follows:

> (1) A citizen shall not be refused the right to hold, use or acquire land that is subject to customary law based on that citizen's
>
> (a) gender;
> (b) tribe;
> (c) religion;
> (d) ethnicity;
> (e) age;
> (f) marital status;
> (g) social status; or
> (h) economic status
>
> (2) In the implementation and enforcement of this Act, the Government shall—
>
> (a) guarantee and preserve all customary land rights;
> (b) guarantee that access to customary land by way of transfer does not deny any citizen's rights to land on the basis of—
>
> i. gender;
> ii. ethnicity;
> iii. tribe;
> iv. religion;
> v. age;
> vi. marital status;
> vii. social status;
> viii. economic status

54. The Court considers that by repealing the Provinces Land Act (Cap 122)— which formed the crux of the Applicants' complaint of discrimination against

members of the Krio community—and by enacting the Customary Land Rights Act 2022, which prohibits discrimination against any Sierra Leonean (including Krios) in the use or acquisition of lands previously governed by the Provinces Land Act, the Respondent, as of 2022, had taken the necessary legislative measures to address the Applicants' claims of discrimination under Articles 2 and 19 of the African Charter. Given this development, the Applicants' claims on this issue have become moot or devoid of purpose. For this reason, the Court does not consider that a further examination of this issue is necessary for the purposes of entering judgment in default. The request for default judgment on this issue is, therefore, denied.

(b) Alleged Violations of the Krios' Rights to Freedom of Association and Freedom of Movement and Residence

55. The two other claims of the Applicants concern the alleged violation of the rights of Krios to freedom of association and freedom of movement and residence. The Court notes that the validity of these claims was equally based on the continued existence and application of the Provinces Land Act (Cap 122), which prevented Krios from moving to and residing in the Provinces and, in doing so, also violated their right to associate with their fellow citizens. As the Court has already found, the Provinces Land Act (Cap 122) which forms the basis of these additional claims was repealed in 2022. Furthermore, the Respondent has enacted the Customary Land Rights Act 2022, which guarantees all citizens the equal rights to hold, use, or acquire land subject to customary law that were previously governed by the impugned Provinces Land Act. In light of these developments, the Court finds that the claims alleging violations of freedom of association and freedom of movement and residence are equally moot or devoid of purpose and do not require further consideration.

Accordingly, the request for entry of default judgment on these two claims is also denied.

56. The Court must, however, emphasize that the foregoing determinations or conclusions in this judgment are without prejudice to any future claims or legal actions alleging discriminatory or unequal application of the National Land Commission Act 2022, or the Customary Land Rights Act 2022, to any individual or group within the Respondent State.

XII. REPARATIONS

57. The Court's finding that the Applicants' claims have become moot should ordinarily dispose of the matter. However, the Applicants have requested compensation for the harms caused by the historical discrimination against the Krio community through the enactment and enforcement of the Provinces Land Act (Cap 122). The Court must, therefore, consider the merits of that request.

58. The Court notes that Applicants requested damages both personally and on behalf of the Krio community for, *inter alia*, deprivation of property rights, psychological harm, violations of fundamental rights, and loss of business and economic opportunities in the country's Provinces from 1961 till date. However, they left the amount of compensation to the Court's discretion, and did not request a specific sum.

59. The Court notes that the compensation sought by the Applicants consists of both special damages for specific losses or harm suffered, as well as general damages. The Court has consistently held that special damages require detailed proof of the losses, injuries, or harm alleged and their quantifiable value. (See *Gregory J. Todd v Federal Republic of Nigeria* [ECW/CCJ/JUD/41/23], paras

79-81). However, the Court observes that the Applicants have not presented any evidence to establish the nature, extent, or financial value of the alleged harm to their property rights, and their business or economic interests during the period the Provinces Land Act was in force. For this reason, the Court cannot grant special damages. The Applicants' request for special damages in this regard is, therefore, denied.

60. With respect to general damages, the Court generally retains the discretion in equity to determine an appropriate award, given the general lack of decisive benchmarks for such assessments. (See *Gregory Todd* case, para 84). However, considering the facts and circumstances of this case, including the fact that the Court did not determine the merits of the Application, the Court decides not to make an order for general damages.

XIII. OPERATIVE CLAUSE

61. For the foregoing reasons, the Court sitting in public and after a hearing in accordance with the Rules of the Court:

On jurisdiction

i. *Declares* that the Court has jurisdiction to hear the initiating Application and the application for default judgment.

On Admissibility

ii. *Finds* that the initiating Application is admissible within the meaning of Article 10(d) of the Court's Protocol and Article 90(2) of the Rules of the Court.

On compliance with appropriate formalities

iii. *Finds* that the application for default judgment complies with required formalities under Article 90(2) of the Rules of the Court.

On the Merits of the Default Judgment Application

iv. *Finds* and *declares* that the claims presented in the Initiating Application to the Court have become moot or devoid of purpose in light of the legislative measures adopted by the Respondent in 2022, specifically, the enactment of the National Land Commission Act 2022 and the Customary Land Rights Act 2022.

v. *Decides* that the Initiating Application and application for default judgment do not warrant further consideration in light of the above finding, and are accordingly dismissed.

On Reparations

vi. *Dismisses* the Applicants' request for damages.

vii. *Decides* that any other claim, request or prayer of the Applicants which is not herein granted in whole or in part is hereby dismissed.

On Costs

viii. *Decides* that each party shall bear their own costs.

Done at Abuja this 17th day of March 2025 in English and translated into French and Portuguese.

Hon. Justice Ricardo C.M. **GONÇALVES**
Presiding Judge

Hon. Justice Dupe **ATOKI**
Member of Panel

Hon. Justice Edward Amoako **ASANTE**
Judge Rapporteur

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