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

MOSES ABIODUN

(APPLICANT)

v

FEDERAL REPUBLIC OF NIGERIA

(RESPONDENT)

Application No. **ECW/CCJ/APP/56/22;** *Judg't No*. **ECW/CCJ/JUD/31/25**

JUDGMENT

LAGOS

15 MAY 2025

THE COMMUNITY COURT OF JUSTICE OF THE

ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

HOLDEN AT LAGOS, NIGERIA

Application No: **ECW/CCJ/APP/56/22;** *Judg't No.* **ECW/CCJ/JUD/31/25**

BETWEEN

MOSES ABIODUN **-APPLICANT**

AND

FEDERAL REPUBLIC OF NIGERIA **-RESPONDENT**

COMPOSITION OF THE COURT:

Hon. Justice Sengu M. **KOROMA** -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:

Chigozie Ikedima, Esq - Counsel for APPLICANT

Maimuna Lami Shiru, 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. Applicant, Moses Abiodun is a Nigerian citizen and a businessman who is being held in the Nigerian Correctional Service Centre, Kirikiri, in Lagos State.

3. Respondent, the Federal Republic of Nigeria, is an ECOWAS member and a party to the African Charter on Human and Peoples' Rights (African Charter) and other international human rights instruments on which the Application is based.

III. INTRODUCTION

Subject Matter of the Proceedings

4. The Application alleges that Mr Moses Abiodun was arrested by the Special Anti-Robbery Squad (SARS), a unit of the Nigerian police in November 2008 and detained for about five months. On 23 March 2009, he was remanded in custody at the Nigerian Correctional Service Centre in Kirikiri, Lagos State, by a Magistrate Court of Lagos State on provisional charges of conspiracy and armed robbery, but he has since not been formally charged, tried, or convicted of any offence. The Applicant therefore contends that his detention without trial since 2009

violates his rights to personal liberty, freedom of movement, fair trial and human dignity under the African Charter and other human rights instruments.

IV. PROCEDURE BEFORE THE COURT

5. Applicant initiated this proceeding by an application dated 25 November 2022 and filed at the Registry of the Court on 28 November 2022. It was served electronically on the Respondent on the next day, 29 November 2022.

6. On 25 April 2023, the Respondent filed an application for extension of time to enable it to file its Defence. It also filed its prepared Statement of Defence. Both documents were served electronically on the Applicant on 26 April 2023.

7. On 14 July 2023, the Applicant filed two documents in reply to the Respondent's Defence, addressing both the facts and points of law. The two documents were electronically served on the Respondent on 17 July 2023.

8. At the session of the Court on 26 September 2024 during which both parties were represented by counsel, Respondent moved its application for extension of time which was not opposed by the Applicant. The Court granted the application and deemed the Respondent's processes

as duly filed and served. It then heard the parties on the merits of the case and adjourned for deliberation and judgment.

V. APPLICANT'S CASE

a. Summary of Facts

9. The Applicant states that he was arrested in or around November 2008 at Ota, Ogun State, by officers of the Special Anti-Robbery Squad (SARS) of the Lagos State Police Command, Ikeja.

10. According to the Applicant, a friend of his who used to call him was alleged to be involved in robbery. Therefore, the SARS officers arrested him in an attempt to employ him as a means to apprehend his friend, whom they accused of armed robbery. Applicant says that all his efforts to explain that he did not know anything about the crime his friend was accused of proved futile.

11. The Applicant states that even after his friend was arrested, the SARS officers refused to release him (the Applicant). He was detained for more than five months at the Lagos State Police Command in Ikeja, where he was subjected to torture and cruel indignities, before being remanded at the Nigerian Correctional Service Centre in Kirikiri, Lagos State, on 23 March 2009 by a Magistrate Court of Lagos State on provisional charges of conspiracy and armed robbery. That his friend who was the main subject of the criminal investigation died in the custody of SARS at the Lagos State Police Command, Ikeja.

12. The Applicant further states that since his remand at the Nigerian Correctional Service Centre in Kirikiri, Lagos State, on 23 March 2009, no formal criminal charges have been brought against him, nor has he been arraigned before any court in Nigeria for trial for a period of 14 years and counting.

13. Therefore, the Applicant contends that his arrest and arbitrary detention at the Nigerian Correctional Service Centre in Kirikiri, Lagos State, since 23 March 2009, violate his rights to liberty, freedom of movement, a fair trial within a reasonable time, and human dignity, contrary to the relevant provisions of the African Charter and the International Covenant on Civil and Political Rights 1966 (ICCPR).

b. Pleas in Law

14. The Applicant submits the following pleas in law:

(i) That the Court has jurisdiction consistent with Article 9(4) of the Protocol of the Court.

(ii) That the case is admissible under Article 10(d) of the Protocol of the Court.

(iii) That the Respondent has violated his right to liberty by arbitrarily detaining him since 2009.

(iv) That the Respondent has violated his right to freedom of movement.

(v) That the Respondent has violated his right to a fair trial within a reasonable time.

(vi) That the Respondent has violated his right to freedom from inhuman and degrading treatment.

c. *Reliefs sought*

15. Applicants request the Court for the following reliefs:

(i) A declaration that the detention and continuing detention of the Applicant by the Agent of the Respondent in the facility of the Nigerian Correctional Service Centre, Kirikiri, Lagos (Medium Security Custodial Centre Kirikiri Apapa Lagos) without trial since 23 March 2009 to date is an infringement of the Applicant's rights to personal liberty, right to freedom of movement, provided under sections 35(4&5) and 41 of the constitution of the Federal Republic of Nigeria 1999 and articles 1, 2,3,5, 6, 7(1)d) and 12(1)(2) of the African Charter on Human & People's Rights.

(ii) A declaration that the unfair detainment of the Applicant without trial in the custody of the Nigerian Correctional Service Centre, Kirikiri Lagos (Medium Security Custodial Centre Kirikiri Apapa Lagos) Nigeria, constitutes cruel, inhuman and degrading treatment contrary to the provisions of the Articles 2(1) & (3), 3, 9(3),(4)&(5)and 14(3)(c) and 26 of the International Covenant on Civil and Political Rights (ICCPR), and Articles 1, 2, 5, 7, 8, 9, 10 and 11(1)&(2) of the Universal Declaration of Human Rights.

(iii) An order directing the Respondent to pay the sum of N500, 000, 000.00 (Five Hundred Million Naira only) to the Applicant as compensation for unlawful detention for a period of 14 years and continuing.

(iv) An order directing the Respondent to unconditionally release the Applicant from the custody of the Nigerian Correctional Service Centre, Kirikiri, Apapa, Lagos (Medium Security Custodial Centre Kirikiri Apapa Lagos) Nigeria, where he has been unfairly detained for a period of 14 years and continuing.

(v) Any such further order or orders as the Court deems fits in the circumstances.

VI. RESPONDENT'S CASE

a. Summary of Facts

16. The Respondent denies the Applicant's allegations and demands the strictest proof of these claims. The Respondent further states that it is unaware of the alleged Special Anti-Robbery Squad mentioned and, as such, calls on the Applicant to provide the strictest proof of this allegation.

17. According to the Respondent, all of its police officers have their names and service numbers displayed on the chest area of their uniforms for ease of identification.

18. The Respondent further states that when its law enforcement agencies make arrests or detains a person, the full details of such a person and the reason for the arrest or detention are recorded in writing within twenty-four hours in a language that the person understands. After the person's statement is taken, he or she is brought before a court within a reasonable time.

19. Respondent also states that it treats its citizens with respect and dignity and no person is subjected to torture or inhuman treatment.

20. The Respondent denies that the Applicant was ever arrested by its agents and asserts that it has no record of him being held at any of its detention facilities.

21. The Respondent further states that the Applicant has failed to present the necessary evidence to support his assertions before this court. The Respondent asserts that the only document attached to the Applicant's application, a remand warrant, is a forged document, as documents from the Respondent's Municipal Court must be certified as true copies before they are issued.

22. The Respondent also asserts that the Applicant's suit is statute barred under Article 9(3) of the Protocol of the Court (as amended). Accordingly, the Respondent contends that the Applicant is not entitled to the claims sought in his application and urges the Court to dismiss the Applicant's case for lack of merit.

b. Pleas in Law

23. The Respondent submits the following pleas in law:

(i) That the Applicant's case is statute barred under Article 9(3) of the Protocol of the Court (as amended).

(ii) That the Applicant claims are without any legal merit.

c. Reliefs Sought

24. The Respondent prays the Court to dismiss the application for lack of merit.

VII. APPLICANT'S REPLY TO RESPONDENT'S STATEMENT OF DEFENCE

25. The Applicant states that contrary to the Respondent's claim, the Special Anti-Robbery Squad (SARS) is a specialized unit of police officers assembled by the Inspector General of Police of Nigeria to address criminality in the country. The Applicant further states that, on most occasions when SARS officers are on duty, they wear jackets inscribed with "SARS," without any indication of the officers' names or service numbers.

26. The Applicant further states that, contrary to the claims made by the Respondent in its Statement of Defence, the Nigerian Police Force, particularly the SARS unit, treats accused persons with great indignity. This dehumanization of Nigerians by the Nigerian Police Force led to the "End SARS" protest in 2020.

27. Regarding the remand warrant attached to the Application, the Applicant states that it is not fake or forged and that it is enough to show that the Applicant has been in the custody of the Respondent since 2009. But in any event, the Applicant's Solicitors have since received the Certified True Copy of the Applicant's remand warrant from the Nigeria Correctional Service via a letter addressed to Vault Solicitors dated 7 June 2023. The documents are attached to the Applicant's Reply as Annexes M and R.

VIII. JURISDICTION OF THE COURT

28. Article 9(4) of the Protocol of the Court vests the Court with 'jurisdiction to determine cases of violation of human rights that occur in any Member State.' The Court has held that to activate this jurisdiction, it is sufficient if the Application alleges that violations of human rights have taken place in the territory of the Respondent state and that the Respondent is responsible for those violations, but without prejudice to the determination of the claims on the merits after hearing both parties. (See *Registered Trustees of Gan Allah Fulani*

Development Association v Federal Republic of Nigeria ECW/CCJ/JUD/06/23, para 38).

29. In this case, the Applicant alleges that he was arrested by the SARS unit of Nigeria's police force in or around November 2008. He was subsequently remanded in prison custody in March 2009, and, as of the date of the Application, has been in detention for over 14 years without any formal charges, trial, or conviction. Because these allegations of human rights violation in the Respondent State implicate the Respondent's obligations under the African Charter and other relevant human rights instruments, the Court has jurisdiction consistent with Article 9(4) of the Protocol of the Court.

IX. ADMISSIBILITY OF THE CASE

30. Article 10(d) of the Court's Protocol requires three main admissibility conditions for human rights cases. These are (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. See *Aziagbede Kokou & Others v Republic of Togo* [2013] CCJELR 167 (para 18).

31. In this case, the Court observes that the Applicant has demonstrated his victim status by pleading sufficient facts that show, *prima facie*, that the conduct of the Respondent's security agents have infringed his fundamental human rights including his rights to liberty, freedom of movement, and fair trial within a reasonable time. Secondly, the case

has not been presented anonymously, nor is there evidence that the claims are pending before another international court or tribunal, contrary to the admissibility requirements of Article 10(d) of the Protocol of the Court.

32. With respect to the Respondent's claim that the Application is statute-barred under Article 9(3) of the Court's Protocol, the Court recalls that it has, in many cases, including recent ones involving the Respondent, clarified that the limitation period in Article 9(3) applies only to cases concerning the extra-contractual liability of the Community, and not to human rights cases. See *Incorporated Trustees of Centre for Peace and Conflict Management in Africa and Rethink Africa Foundation (on Behalf of Vincent Ogueri) v Federal Republic of Nigeria* [ECW/CCJ/RUL/05/24] and *Khafila Abiola and Others v Federal Republic of Nigeria* [ECW/CCJ/RUL/01/25]. Accordingly, the claim that the Application is statute barred is without merit and is hereby dismissed.

33. For the foregoing reasons, the Court concludes that the case submitted by the Applicant is admissible.

X. MERITS

34. Having regard to the pleadings in the Application including the reliefs sought, the Court is invited to make four main determinations of human rights violations namely:

i) That the Respondent has violated the Applicant's right to liberty.

ii) That the Respondent has violated the Applicant's right to freedom of movement.

iii) That the Respondent has violated the Applicant's right to a fair trial within reasonable time.

iv) That the Respondent has violated the Applicant's right to freedom from cruel, degrading or inhuman treatment.

35. The Court will now address each of these substantive claims in turn.

i) Alleged violation of the Applicant's right to liberty

(a) Submissions of the Applicant

36. The Applicant submits that he was arrested by SARS agents in or around November 2008, ostensibly to be used as a means to reach and apprehend his friend, who was accused of armed robbery. He was held in the custody of SARS until he was remanded into prison custody on a holding charge of conspiracy and armed robbery by a Lagos Magistrate Court on 23 March 2009. That since then, no formal charges of any kind have been brought against him, nor has he been brought before any court for trial. He has simply been left to his fate in the prison for over fourteen years as of the date of the Application. Applicant therefore submits that his arrest and imprisonment without trial for

these many years, which is attributable to the Respondent, violates his rights to liberty under Article 6 of the African Charter and Article 9 of the ICCPR.

(b) Submissions of the Respondent

37. In response, the Respondent states that the SARS unit of the Nigerian police, whose officers allegedly arrested the Applicant, is unknown to it. Furthermore, its law enforcement officers are uniformed, wear official name tags, and are required to record the details of all arrests. According to the Respondent, there is no official record of the Applicant ever being arrested by any of its law enforcement agents or being remanded by any court. The Respondent also claims that the remand warrant attached to the Application is fake, as it is not a certified true copy.

(c) *Analysis of the Court*

38. In its defence, the Respondent denies that the Applicant was ever arrested by SARS officers or that he is in detention without trial at any of its prison facilities. It also claims that the remand warrant attached to the Application is fake. In its Reply, the Applicant maintains that SARS is a well-known unit of the Nigerian police force, tasked with handling robbery and similar criminal activities. The Applicant further asserts that the mistreatment of suspects in SARS custody led to the widely publicized End SARS protests of 2020. The Court is satisfied that SARS is indeed a unit of the Respondent's police force and finds the denial of its existence to be insincere and without merit.

39. The Court also notes from the pleadings that, although the certified true copy of the warrant under which the Applicant was remanded in prison was apparently unavailable to his lawyers at the time of filing the Application, it was subsequently obtained from the Nigerian Correctional Service and included in the Applicant's Reply. After examining the document, the Court is satisfied that the Applicant was indeed arrested and remanded by a court in the Respondent state into prison custody in March 2009. Therefore, even if the Court were to consider the Respondent's claim that SARS does not exist and that the Applicant was never arrested or remanded into prison custody, it is still for the Respondent to explain why the Applicant is being held at the Nigerian Correctional Service Centre in Kirikiri, Lagos, in light of the above. Having failed to disprove the evidence submitted in the Applicant's reply, the Court finds that the Applicant was indeed arrested and remanded into prison custody on 23 March 2009.

40. The Court now turns to the legal issue of whether the Applicant's detention since 2009 is a violation of his right to liberty. The Court begins by recalling Article 6 of the African Charter which provides that:

> Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

41. Similarly, the ICCPR to which the Respondent is a party also provides in Article 9 that:

> Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be

deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

42. For the arrest or detention of an individual to be lawful and non-arbitrary, and hence, compliant with Article 6 of the African Charter and Article 9 of the ICCPR, this Court, relying on *African Commission v Libya (Merits)* (2016) 1 AfCLR 153 (para 80), held in *Gregory J Todd v Federal Republic of Nigeria* [ECW/CCJ/JUD/41/23] (para 56) that such arrest or detention must comply with the following:

    i. That anyone arrested must, at the time of the arrest, be informed of the reason of the arrest and be promptly informed of the charges against them.
    ii. That a person arrested or detained on criminal charges must be promptly brought before a judge and if not tried within a reasonable time, they should be released with guarantees to reappear.
    iii. That a person arrested or detained must have the right to institute legal proceedings for the determination of the lawfulness of the arrest or detention.

43. In this case, the Applicant was arrested and remanded into prison custody on a holding or provisional charge of conspiracy to commit robbery and robbery. This presupposes that further investigations were to be conducted by the law enforcement agents of the Respondent with a view to either formally charging and prosecuting the Applicant or releasing him if no credible case could be made against him. However, the Applicant has been held in detention on remand since 2009, with no evidence from the Respondent regarding completed investigations, formal charges, or a trial. Despite the lack of any trial, the Applicant has also not been released, either on bail or otherwise. In light of these findings, the Court holds that the Respondent has violated the

Applicant's right to liberty under Article 6 of the African Charter and Article 9 of the ICCPR.

ii) Alleged violation of the Applicant's right to freedom of movement

44. The Applicant submits that his detention since 2009 without any trial also violates his freedom of movement. The Respondent makes a general denial of any of the Applicant's rights.

45. Article 12(1) of the African Charter guarantees to every individual the 'right to freedom of movement and residence within the borders of a State provided he abides by the law.' Article 12(1) of the ICCPR provides an identical protection of the freedom of movement by stating that "[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence".

46. The Court notes that while the right to liberty under Article 6 of the African Charter and Article 9 of the ICCPR is concerned with "a more severe restriction of motion or confinement of the body of an individual within a narrow space" such as a prison cell, "any unreasonable or unjustifiable interference with the movement of a person may constitute a violation of the freedom of movement." (*Gregory J Todd v Federal Republic of Nigeria* [ECW/CCJ/JUD/41/23] (para 62); see also Human Rights Committee, *General Comment No 35: Article 9 of ICCPR (Liberty and Security of the Person)*, para 5). In other words, violations of freedom of movement have a broader scope and encompass the more

narrowly defined instances of deprivation of liberty, as well as any unreasonable or unjustified interference with an individual's ability to move freely within or outside the territory of a state.

47. In this case, the Court has already established that the Respondent has unlawfully and arbitrarily deprived the Applicant of his liberty by holding him in detention without trial or bail since 2009. It follows, *ipso facto*, that the Respondent has also violated the Applicant's right to freedom of movement, as he has been confined to a prison without the ability to move freely within the country, let alone travel abroad if he so desires.

iii) Alleged violation of the Applicant's right to a fair trial within reasonable time

48. The Applicant contends that his detention for over fourteen years, as of the date of the Application, without any formal charges being brought against him or a trial before an impartial Court, violates his right to a fair trial within a reasonable time.

49. The Respondent presented no specific defence to this claim, apart from its general denial of violations of the Applicant's rights and its assertion that it has no record of the Applicant being arrested or remanded into prison custody.

50. The Court begins by recalling Article 7(1) of the African Charter which provides:

> Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.

51. The Court notes that there is no standard period prescribed as the reasonable time within which a person accused of a crime must be tried by an impartial court or tribunal. What constitute a reasonable time is often assessed on a case-by-case basis. (See *Kessei Menveinoyou v Togolese Republic* [ECW/CCJ/JUD/34/24] para 44; and *Amozou Henri and Others v Cote d'Ivoire* [2004-2009] CCJELR 281, para 93). However, the fact that there is no prescribed reasonable time is not an excuse for law enforcement or prosecution agencies of a state to conduct criminal investigations indefinitely without bringing formal charges and affording the accused the opportunity to defend himself or herself before an impartial court or tribunal. (See *Melville Roberts v The Gambia* [ECW/CCJ/JUD/43/24, para 46; *Gregory J Todd v Federal Republic of Nigeria* [ECW/CCJ/JUD/41/23] para 66; and *Valentine Ayika v Liberia* [2012] CCJELR 167, para 44).

52. In *Chief Ebrimah Manneh v. The Gambia* [2004-2009] CCJELR 181, the Applicant was arrested in June 2006 and held without a charge or trial for more than one year. The Court held that the arrest and detention

of the Applicant for over a year without reasonable justification or a trial before a court violated his right to a trial within a reasonable time under Article 7(1) of the African Charter (see *Chief Ebrimah Manneh v. The Gambia*, paras 21-23). In fact, in *Badini Salfo v. Burkina Faso* [2012] CCJELR 281 (paras 39-41), the Court held that the arrest and detention of the Applicant for over three months without a charge or trial, in breach of the Respondent's own laws, violated the Applicant's right to a trial within a reasonable time under Article 7(1)(d) of the African Charter.

53. In this case, the Applicant was remanded into prison custody in March 2009 after being arrested in or around November 2008. This means that as of the date of this judgment, the Applicant has been held without any formal charges or a trial for at least 16 years. Such a prolonged period of detention without trial cannot, by any human rights standard, be regarded as reasonable. The Court finds and holds that this constitutes an egregious violation of the Applicant's right to a fair trial within a reasonable time, contrary to the Respondent's obligations under Article 7(1)(d) of the African Charter.

iv) Alleged violation of the Applicant's right to freedom from cruel, inhuman or degrading treatment

54. The Applicant urges the Court to find that his unfair detention for fourteen years (as of the date of the Application) constitutes cruel,

inhuman, or degrading treatment, in violation of Article 5 of the African Charter and Article 7 of the ICCPR.

55. In response, the Respondent makes a generalized denial, claiming that it treats its citizens with respect and dignity, and that no person is subjected to torture or inhuman treatment.

56. In *Badini Salfo v Burkina Faso* [2012] CCJELR 281 (para 38), the Court explained that a punishment or treatment is cruel if is meted out in disregard for the fragility of the human person and in a manner that shocks the conscience, it is inhuman if it is intentionally inflicted to cause great physical or mental pain to the victim, and it is degrading if it is inflicted to humiliate or debase the victim. Similarly, the Court noted in *Chukwuemeka Edeh v Nigeria* [ECW/CCJ/JUD/36/24] (para 38) that cruel, inhuman, or degrading treatment or punishment, "are acts that cause severe physical or mental pain or suffering and are intended, among others, to humiliate or debase the individual, or have such effect on the individual."

57. In cases where prolonged detention has been held to constitute inhuman or degrading treatment, such findings have usually been made in the context of additional adverse conditions of detention, including overcrowding, unsanitary facilities, or solitary confinement. (See *Kalashnikov v. Russia* [ECtHR, App no. 47095/99], paras 92-103)

58. The Court considers, however, that with respect to pretrial detainees, who are presumed innocent, an unduly prolonged detention without formal charges and a trial may, in and of itself, constitute inhuman or degrading treatment or punishment. This will be the case if, given the length of the detention and the conduct of the state, it is evident that the pretrial detention is intended as anticipatory punishment or has that effect. In *Haregewoin Gabre-Selassie and IHRDA (on behalf of former Dergue Officials) v Ethiopia*, (ACHPR, Comm No. 301/05, para 209), the African Commission held that the prolonged detention of certain individuals without a conviction constituted anticipatory punishment when it noted as follows:

> The prolonged imprisonment without conviction of the victims for a period of about 16 years clearly violates their right to be presumed innocent in that it was meant as a sanction prior to the delivery of the judgment.... [T]he deprivation of a person's liberty for a disproportionate time is the same as serving a sentence in advance of the judgment.

59. In this case, the Court notes that the Applicant has been in pretrial detention without any formal charges or trial, and endured all the attendant physical and mental suffering, for 14 years at the time of the Application, and now 16 years by the date of this judgment. Given the apparent disregard in the conduct of the Respondent, including its denial of the Applicant's arrest and remand in prison custody, as well as the existence of its own security agency that arrested the Applicant, the Court considers that the Applicant has been left to languish in jail without a trial or conviction. In the Court's view, this amounts to anticipatory punishment, that is, serving a sentence in advance of a potential trial and conviction, which must be deemed an inhuman or

degrading treatment or punishment. Accordingly, the Court holds that the Respondent has violated the Applicant's right to be free from inhuman or degrading treatment or punishment, in violation of Article 5 of the African Charter and Article 7 of the ICCPR.

XI. REPARATIONS

60. Given the Court's conclusion that the Respondent has violated the Applicant's rights to liberty, freedom of movement, fair trial and freedom from inhuman or degrading treatment or punishment, the Court must consider the appropriate reparations the Respondent must make.

61. Reparations may take the form of restitution, compensation, satisfaction, or a combination of these. In this case, the Applicant requested, by way of compensation, general damages of 500 million naira. He also requested, by way of restitution, an order for his release.

62. The Court notes that in the award of general damages, it is not possible to place a monetary value on the suffering, distress, embarrassment, and other psychological harms a victim of a human rights violation would have suffered. Thus, while the Court may take account of factors such as the gravity or egregiousness of the violation and the conduct of the State in the aftermath of the violation, ultimately, it is up to the Court to exercise its discretion in equity to determine what amounts to a fair compensation to be paid. In this case, given the prolonged period of

detention without trial for 16 years and the unacceptable lack of action by responsible authorities of the Respondent State, the Court considers that the sum of 20 million naira is a just and fair compensation for the violations of the rights of the Applicant.

63. The Court grants other reliefs sought by the Applicant only to the extent indicated in the operative clause of this judgment.

XII. COSTS

64. Pursuant to Article 66(11) of the Rules of the Court, the Court decides that each party shall bear their own costs.

XIII. OPERATIVE CLAUSE

65. For the foregoing reasons, the Court sitting in public and after hearing the parties:

On jurisdiction

i. Declares that the Court has jurisdiction over the Application.

On Admissibility

ii. Finds that the Application is admissible.

On the Merits

iii. Declares that the Respondent has violated the Applicant's right to liberty contrary to Article 6 of the African Charter and Article 9 of the ICCPR.

iv. Declares that the Respondent has violated the Applicant's right to freedom of movement contrary to Article 12 of the African Charter and Article 12 of the ICCPR.

v. Declares that the Respondent has violated the Applicant's right to a fair trial within a reasonable time contrary to Article 7(1)(d) of the African Charter.

vi. Declares that the Respondent has violated the Applicant's right to freedom from inhuman or degrading punishment or treatment contrary to Article 5 of the African Charter and Article 7 of the ICCPR.

On Reparations

vii. Orders the Respondent to release the Applicant from detention forthwith.

viii. Orders that the Respondent shall pay to the Applicant 20 million naira as compensation for the violations of his rights determined in this judgment.

ix. Decides that all other reliefs sought by the parties which have not been herein granted in whole or in part are hereby dismissed.

On Costs

x. Decides that each party shall bear their own costs.

Done at Lagos this 15th day of May 2022 in English and translated into French and Portuguese.

Hon. Justice Sengu M. **KOROMA**

Presiding Judge ……

Hon. Justice Dupe **ATOKI**

Member of Panel ……

Hon. Justice Edward Amoako **ASANTE**

Judge Rapporteur ……

ASSISTED BY:

Dr. Yaouza **OURO-SAMA** (Chief Registrar) ……