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

In the Matter of

LACERDA YOANN

v.

REPUBLIC OF CABO VERDE

Application No. ECW/CCJ/APP/38/23 - Judgment No. ECW/CCJ/JUD/17/25

JUDGMENT

ABUJA

On 7th April, 2025

APPLICATION No ECW/CCJ/APP/38/23

JUDGMENT No. ECW/CCJ/JUD/17/25

BETWEEN

LACERDA YOANN **APPLICANT**

AND

REPUBLIC OF CABO VERDE **DEFENDANT**

COMPOSITION OF THE COURT PANEL

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES - Presiding / Judge Rapporteur

Hon. Justice Sengu Mohamed KOROMA - Member

Hon. Justice Dupe ATOKI - Member

ASSISTED BY

Dr. Yaouza OURO-SAMA - Chief Registrar

REPRESENTATION OF THE PARTIES

Maître Koffi Sylvain Mensah ATTO - Counsel for the Applicant

Dr. Hélio Sanches - Counsel for the Defendant

I. JUDGMENT

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

II. IDENTIFICATION OF PARTIES

2. The Applicant is Mr. Lacerda Yoann, a citizen of Cabo Verde, resident and domiciled at Rua de UCCLA n.° 24.
3. 3. The Defendant is the State of Cabo Verde, a member of the Economic Community of West African States (ECOWAS) and a signatory to the African Charter on Human and Peoples' Rights, hereinafter referred to as the African Charter.

III. INTRODUCTION

4. In the case *sub judice*, the Applicant came to claim the violation of his human rights, because since 2011 he has been suffering from a common variable hereditary immunodeficiency; he alleges that for the treatment of this disease he went to the hospital in Paris every six (6) months to pick up the product, as the Pharmacy could not supply it for a longer period; he further claims that since the beginning of the COVID-19 pandemic, the Applicant took the necessary steps with the competent services of the Defendant in order to import the product, but those services did not comply with his request.

IV. PROCEEDINGS BEFORE THE COURT

5. The originating application (doc.1), accompanied by two (2) annexures, was registered at the Registry of this Court on September 22, 2023.
6. Having been duly served on September 26, 2023, the Defendant State, that of Cabo Verde, came to present its defense on October 27, 2023 (doc. 2), which was served on the Applicant on November 2, 2023 and the latter said nothing.
7. On June 26, 2024the Defendant submitted additional documents in its defense, which were served on the Applicant on June 28, 2024, who said nothing.
8. At the virtual hearing held on March 20, 2025 to hear the parties on the merits of the case, both parties were represented and made their oral submissions.
9. The case was adjourned for judgment on 7th April 2025.

V. THE APPLICANT'S CASE

a. Summary of Facts

10. The Applicant claims that he has been suffering from a common variable hereditary immunodeficiency since 2011. For the treatment of the said disease, he used to go to the hospital in Paris every six (6) months to pick up the product, as the pharmacy could not supply it for a longer period. He continued his treatment as normal until the COVID-19 pandemic hit;
11. That since the beginning of the COVID-19 pandemic, the Applicant, on contingency basis with his attending physician, has taken the necessary steps with the competent services of the Republic of Cabo Verde, with a view to import the product necessary for his care, in order to allow him to continue his treatment with a view to enjoying the right to health in accordance with the international instruments ratified by the Defendant State;
12. So, on October 18, 2019, he contacted the public company that has exclusive rights to import medicines and hospital products in Cabo Verde, so that he

could have the possibility of acquiring the product he needed to continue his treatment. The latter referred him to the health regulator to request authorization to import the product;

13. In addition, the authorization to import the product was granted and sent on October 28, 2019 to the public company that has exclusive rights to import medicines and hospital products;

14. As of March 31, 2020, he had received no response from the latter. He therefore reapplied to the health regulatory agency, taking care to specify that he only had one month of treatment left. On April 7, 2020, he reapplied to the public company whose mission is to import medicines and hospital products, but unfortunately his request was not given-heed;

15. The contacts made with the various concerned services until June 2021, namely the public company that has exclusive rights to import medicines and hospital products and the health regulatory agency, have been fruitless;

16. He therefore decided to meet the Minister of Health to explain his situation. On January 27, 2021, he was received in audience by the Minister responsible for Health and explained to him all the blockages he had been facing at the level of the various health services and sent him all the necessary elements to understand the dossier, but there was no follow-up;

17. The various reminders sent to the service in question until September 3, 2021 went unanswered;

18. The Applicant's claims that despite his efforts to access the medicine necessary for the continuation of his treatment, the various health services did not take the necessary measures to allow him access to the product.

b. Pleas in Law

19. The Applicant relied on Articles:

i. 16 of the African Charter;

ii. 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);

iii. 25 of the Universal Declaration of Human Rights (UDHR).

c. Reliefs Sought

20. The Applicant concluded by seeking from the Court to:

i. Declare that the Defendant, by its actions, violated Articles 16 of the African Charter; 25 of the UDHR and 12 of the ICESCR;

And consequently:

ii. Order the Defendant to pay him the total sum of ten million (10,000,000) US dollars as compensation for the damage suffered.

THE DEFENDANT'S CASE

a. Summary of Facts

21. In fact, the Applicant suffered from a disease whose medicine he wanted to be imported from France, where he went for medical consultations;

22. Thus, on July 2020, the Applicant contacted the INPS (National Social Security Institute), the institution that co-pays for the purchase of medicines for patients, in the person of Mrs. Adroalda Araújo, saying that he made this contact through Mrs. Sheila Barros, from ERIS (Independent Health Regulatory Authority), having sent her the prescriptions for 6 months of treatment, which he wanted to import, through EMPROC (National Company of Pharmaceutical Products) and inquired what the procedures were in relation to the INPS, knowing that these were medicines classified as being for hospital use;

23. On September 10, 2020, Ms. Adroalina, from the INPS, replied to the Applicant saying "*Good morning*

Dear Sir,

According to the Regulatory Authority's statement, the beneficiary should go to a hospital service facility, as this is a medicine for hospital use.

According to Ministerial Act no. 13/2011, of January 31, which defines the INPS co-payment system for the purchase of medicines prescribed to beneficiaries, medicines for hospital use are used exclusively in hospitals and clinics with in-patient care, and therefore cannot be sold in pharmacies. In this sense, and since it is the responsibility of the health facilities, the supply of the medicine in question should be dispensed by the health facility.

Best regards,

Adroalda Araújo".

24. The INPS, through Mrs. Adroelina Arraújo, gave all the information to the Applicant, emphasizing that he should go to a hospital service facilities because it is a medicine for hospital use and the treatment must be done in hospitals and clinics with in-patient care;
25. On the same day, September 10, 2020, the Applicant sent Ms. Simone Lima, at EMPROFAC, the reply sent by INPS and referred to in pleading 48, above;
26. On September 10, 2020, the Applicant sent the following message to the INPS through the person of Ms. Adroalda Arraújo: *"Thank you for the feedback, then I'll have to take the injections at the hospital of Praia.*

    In that case can you tell me what my participation will be please?

    With best regards,".

27. On September 10, the INPS, through Adroalda Arraújo, replied: "*I can't tell you*", referring to hiscontribution;

28. Contrary to the Applicant's allegation, the health institutions gave him all the explanations and also treated him with dignity, as can be seen from the exchanges of messages;
29. The Applicant at no point says that he should, as he was advised to do, contact and go to a hospital, for example the Central Hospital of Praia, Dr. Agostinho Neto, or a clinic with an inpatient ward to obtain this medicine, which should not be sold in pharmacies;
30. Therefore, the Applicant did not follow the guidelines given to him by the INPS in order to obtain the medicine he intended;
31. This medicine is used exclusively in hospitals and clinics with in-patient cares;
32. He had to go to a hospital or a clinic with an inpatient ward;
33. Therefore, the Applicant knew that this was the procedure because he wrote to Mrs. Adroalda: "*then I'll have to take the injections at the hospital of Praia.*"
34. ERIS had already authorized the import of this medicine for him, as the Applicant himself admits;
35. The State's responsibility is to make available to users of the National Health System the medicines contained in the National List of medicines (LNM) and the National List of Special medicines (LNME);
36. This medicine, more precisely "immunoglobulina humananormal 100 mg/ml" is not included in the said list, so, with clinical justification, he should request import authorization from the Independent Health Regulatory Authority, and such authorization had already been granted to the Applicant and renewed under CAI (license) no. 71/2020;
37. The formalities and the materialization of the import of this medicine had to be done by the Applicant with the hospital or clinics with in-patient care, as it is a medicine for hospital use, which the Applicant did not do;

38. It is clear that the Applicant only failed to have the treatment with the medicine he wanted because he did not follow the instructions given by the health institutions, in accordance with Cape Verdean legislation;

39. Therefore, there is no responsibility on the part of the State of Cabo Verde and the health institutions for not importing the mediation that the Applicant intended (see Docs. 2, 3 and 4);

40. However, even in the event of possible liability, which is only an academic hypothesis, it would always be these institutions that would be held responsible and not the State of Cabo Verde;

41. And the Applicant could always turn to the Cabo Verde courts to enforce his alleged rights.

b. Pleas in Law

42. In support of its case, the Defendant State cited the case law of this Court.

v. Reliefs Sought

43. The Defendant State prays the Court to:

a) Take into consideration of the irregularities of lack of proof of the Applicant's nationality and regularity of exercise of office and, consequently, the State of Cabo Verde be acquitted of this judicial action;

b) The plea of lack of jurisdiction of the Court is upheld as proven and the State of Cabo Verde should consequently be acquitted of the case; or, if this is not the case, a reasoning that is only made here by academic hypothesis;

c) That the Defendant be acquitted of the claim for damages for violation of the Applicant's human rights to health, in particular the violation of Articles 16 of the African Charter, 25 of the UDHR, 12 of the ICESCR and any other provisions of international legal instruments to which the Defendant is a party, due to the manifest lack of grounds presented by the Applicant.

VII.ON THE JURISDICTION

a) The alleged lack of jurisdiction of the Court

44. The Court takes note that the Defendant alleged the lack of jurisdiction of this Court to examine the application and its admissibility.

The Court's Analysis

45. Before addressing the parties' submissions on the Preliminary Objection raised by the Defendant, the Court must first examine whether the Defendant's objection complies with the Court's Rules.

46. Article 87 of the Rules of Court on preliminary objections before the Court provides as follows:

"1. A party applying to the Court for a decision on a preliminary objection or other preliminary plea not going to the substance of the case shall make the application by a separate document.

2. The application must state the pleas of fact and law relied on and the form of order sought by the applicant and any supporting documents must be annexed to it."

47. The above provision implies that any preliminary objection before the Court must be presented in a separate application from the document in which the substantive matters are addressed. This allows the Court to examine and decide on such an application separately.

48. We note that the Defendant's Preliminary Objection was not submitted in a separate document, as required by Article 87(1) of the aforementioned Rules. Instead, the preliminary objection is found in the body of the statement of defense.

49. The Court is bound by the provisions of its Rules of Procedure, which guide litigants on how cases should be brought before the Court and the procedures to be followed. Therefore, an application that does not comply with the rules risks being rejected. (See *MAHAMANE OUSMANE v. THE REPUBLIC OF NIGER*, Judgment No: ECW/CCJ/JUD/26/22, para. 47)

50. The provisions of the Protocol and the Rules of the Court are clear and unambiguous and must be complied with by the parties before the Court. (See *VISION KAM-JAY INVESTMENT LIMITED v. PRESIDENT OF THE ECOWAS COMMISSION, Judgment No: ECW/CCJ/JUD/26/22, page 9*).

51. Therefore, since the Defendant has not complied with the Rules of the Court regarding the manner in which a preliminary objection must be submitted, the Court decides that it will not proceed to examine the Defendant's preliminary objection.

52. The Defendant's preliminary objection is therefore dismissed.

53. Thus, in the instant case, the Applicant's allegations are based on the violation of his human rights contrary to the relevant provisions of the African Charter and other international instruments for the protection of human rights, in particular the ICESCR and the UDHR, as relied on.

54. In this sense, the present action falls within the scope of the jurisdiction conferred on this Court under Article 9 (4) of Protocol A/P1/7/91 on the ECOWAS Court of Justice, as amended by Supplementary Protocol A/SP.1/01/05, to hear cases of human rights violations occurring in any Member State, and the Court therefore considers that it has jurisdiction to hear the instant case.

VIII. ADMISSIBILITY

55. The same arguments as above apply to the preliminary objections raised by the Defendant regarding the alleged failure to identify the Applicant as a

citizen of an ECOWAS Member State and his legal representative as a lawyer in lawful exercise of his profession: active illegitimacy and irregularity of mandate, which were not presented in a separate document.

56. In the instant case, having the Applicant has identified himself as a victim of a human rights violation, and there is no evidence that the same case has been heard before another competent international court, the Court finds that the application is not manifestly inadmissible under Article 10(d) of Protocol A/P1/7/91 on the Court, as amended by Supplementary Protocol A/SP.1/01/05, cited above, nor for any other reason.

57. The action must therefore be declared admissible.

IX. MERITS

58. The Court will now examine the human right allegedly violated by the Defendant State, taking into account the questions as put forth by the Applicant for determination of the Court.

a) The alleged violation of the right to health

The applicant's arguments

59. In support of the violation of the right under analysis, the Applicant alleged, in summary, that in view of the above facts, the various services of the Defendant responsible for ensuring the right to health of the populations under its jurisdiction did not take the necessary measures to allow the Applicant access to health care in accordance with the obligations imposed on the Defendant State i.e. the Defendant did not take the appropriate measures to make the products necessary for his health accessible for two years.

Defendant's Argument

60. The Defendant refuted the above facts, stating, in particular, that the both it and its health institutions acted in accordance with Cape Verdean law and gave decent treatment to the Applicant who, moreover, says he was received by the Defendant's very own Minister of Health, which proves that the Applicant was well treated, with the Defendant offering to support him in his treatment, but that he did not comply with the legal instructions given by the Defendant's authorities.

The Court's Analysis

61. In recent years, there have been considerable developments in international law regarding the normative definition of the right to health, which includes both health care and healthy conditions.

62. Thus, health is considered a fundamental human right that encompasses the right to access health care and the underlying determinants of health and is indispensable for the enjoyment of other human rights. (See African Commission, *PUROHIT AND ANOR v GAMBIA* (Communication No. 241/2001) [2003] ACHPR 49; (29 May 2003), page 80; *MR. KPATCHA GNASSINGBE & ORS v. REP OF TOGO,* Judgment No. ECW/CCJ/JUD/06/13, page 22).

63. Every human being has the right to the enjoyment of the highest attainable standard of health, conducive to living a life of dignity. The realization of the right to health can be pursued through numerous complementary approaches, such as the formulation of health policies, or the implementation of health programs developed by the World Health Organization (WHO), or the adoption of specific legal instruments. In addition, the right to health includes certain components that are legally enforceable.

64. The right to health has been enshrined in numerous international and regional human rights instruments, including the African Charter.

65. The UDHR is the first international human rights instrument to enshrine the right to health.

66. According to Article 25 (1) of the UDHR: "*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.*"

67. The ICESCR provides the most comprehensive article on the right to health in international human rights law.

68. According to Article 12(1) of the ICESCR, States Parties recognize "*The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*" while Article 12(2) lists, by way of illustration, a series of "*steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right...*"

69. Article 16 of the African Charter further establishes that:

> *"Every individual shall have the right to enjoy the best attainable state of physical and mental health.*
>
> *2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.*"

70. Thus, to address the right to health, it is essential to understand the importance of the above articles.

71. The right guaranteed is the enjoyment of the best possible state of physical and mental health. It should not be misinterpreted as meaning the right to be healthy. States are not obliged to ensure that all individuals are completely healthy, but they must guarantee, in particular, the creation of conditions that guarantee everyone medical services and medical care in the event of illness,

both physical and mental, including the provision of equal and timely access to basic preventive care and the supply of essential medicines.

72. The right to health contains freedoms and rights. Freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. Conversely, rights include the right to a health protection system that provides equal opportunities for people to enjoy the highest possible standard of health.

73. As can be seen, the right to health is closely related to and depends on the realization of other human rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, privacy, access to information and the freedoms of association, assembly and circulation. These and other rights and freedoms address integral components of the right to health. (See *AIRCRAFTWOMAN BEAUTY IGBOBIE UZEZI v. THE FEDERAL REPUBLIC OF NIGERIA*, Judgment No. 1 ECW/CCJ/JUD/11/21, paras. 104 and 106).

74. In its General Comment No. 14 on the right to health, adopted in 2000, the UN Committee on Economic, Social and Cultural Rights states that, "*the right to health must be understood as a right to the enjoyment of a variety of facilities, goods,services and conditions necessary for the realization of the highest attainable standard of health... right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing.*"

75. According to the aforementioned General Comment, the right to health contains four elements: availability, accessibility, acceptability and quality, and imposes three types of obligations on States – to respect, fulfill and protect the right. In terms of the duty to protect, the State must ensure that

third parties (non-State actors) do not infringe on the enjoyment of the right to health.

76. With regard to availability and accessibility, the Commentary stated that:

"(a) Availability. ***Functioning public health and health-care facilities, goods andservices, as well as programmes, have to be available in sufficient quantity within the State party.*** *The precise nature of the facilities, goods and services will vary depending on numerous factors, including the State party's developmental level. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs."*

b) Accessibility. Health facilities, goods and services6 have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:

Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.

Physical accessibility: ***health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups (...)***

Accessibility to information: ***accessibility includes the right to seek, receive and impart information and ideas8 concerning health issues.*** However,accessibility of information should not impair the right to have personal health data treated with confidentiality."

The same General Comment states that *"Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care. Read in conjunction with more contemporary instruments, such as the Programme of Action of the International Conference on Population and Development, the Alma-Ata Declaration provides compelling guidance on the core obligations arising from article 12. Accordingly, in the Committee's view, these core obligations include at least the following obligations:*

(a) ***To ensure the right of access to health facilities, goods and services on anon-discriminatory basis****, especially for vulnerable or marginalized groups;*

(...)

(d) To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone; (bold ours)

77. Returning to the case at hand:

78. It is an established fact that:

i) The Applicant suffers from a common variable hereditary immunodeficiency, the medicine for which he wishes to be imported from France. For the treatment of this illness, he used to go to the hospital in Paris every six (6) months. (See Annexure 1 attached to the initial application and paragraph 48 of the defense)

ii) On July 27, 2020, the Applicant contacted the INPS (Instituto Nacional da Previdência Social (National Social Security Institute)), the institution that co-pays for the purchase of medicines for patients, in the person of Ms. Adroalda Araújo, saying that he had contacted them through Ms. Sheila Barros, from ERIS (Entidade Reguladora Independente de Saúde

(Independent Health Regulatory Authority)), having attached the medical prescriptions for 6 months of treatment, which he intended to import, through EMPROFAC (Empresa Nacional de Produtos Farmacêuticos (National Pharmaceutical Products Company)) and inquired what the procedures were in relation to INPS, knowing that these are medicines classified as being for hospital use. (See annexure no. 2 attached to the originating application).

iii) On September 10, 2020, Ms. Adroalina, from INPS, replied to the Applicant in the following terms:

"*Good morning*

Dear Sir,

According to the Regulatory Authority's statement, ***the beneficiary must go to a hospital service facility, as this is a medicine for hospital use.***

According to Ministerial Act no. 13/2011, of January 31, which defines the INPS co-payment system for the purchase of medicines prescribed to beneficiaries, medicines for hospital use are used exclusively in hospitals and clinics with in-patient care, and therefore cannot be sold in pharmacies. In this sense, and as it is the responsibility of the health facilities, the supply of the medicines in question should be dispensed by the health facilty.

Best regards,

Adroalda Araújo". (See Annexure No. 2 attached to the original application) (bold ours)

iv) On the same day, September 10, 2020, the Applicant sent the INPS, through the person of Ms. Adroalda Araújo, the following message: "*Thanks for the feedback, then I'll have to take the injections at the hospital in Praia.*

In that case can you tell me what my participation will be please?

With best regards,". (See annexure no. 2 attached to the originating application).

v) On the same day, September 10, 2020, the Applicant sent Ms. Simone Lima, from EMPROFAC, the reply sent by INPS, mentioned above. (See annexure no. 2 attached to the originating application).

vi) On the same day, September 10, the INPS, through Mrs. Adroalda Araújo, replied to the Applicant saying: "*I can't tell you*". (See annexure no. 2 attached to the originating application)

vii) On November 29, 2021, the company EMPROFAC sent a letter to the Applicant with the following subject "*Import of the medicine Human immunoglobulin normal 100 mg/ml (with recombinant human hyaluronidase), solution for infusion.*" which reads: "*In response to your request for authorization to import Human Immunoglobulin Normal 100 mg/ml (with recombinant human hyaluronidase), solution for infusion, ERIS hereby informs you that your request has been renewed under CAI no. 071/2020 and that you have been granted the co-payment scheme for step C.* ***You should contact a hospital service facility, in conjunction with the INPS. To make requisition of the medicine from EMPROFAC, which is responsible for importing it***..." (See annexure no. 2 attached to the defence) (bold ours)

79. From an analysis of the above-mentioned documents, it should be noted that the above-mentioned institutions, INPS and EMPROFAC, were willing to help the Applicant, informing him of the procedure he had to follow in order to acquire the aforementioned medicine, i.e. he had to go to a hospital service facility, since normal human immunoglobulin 100 mg/ml (with recombinant human hyaluronidase), solution for infusion, is classified as a medicine for hospital use.

80. However, there is no record in the case file that he was prevented by the Defendant from accessing a hospital facility or service, in accordance with the instructions of the INPS and EMPROFAC, or that he went to the hospital facility in accordance with the instructions of those institutions and that such services refused to comply with his request, demonstrating their unwillingness to assist him, in accordance with the case law mentioned above.

81. In other words, it has not been proven, in particular, that there was a denial by the Defendant of access to the facilities, goods and health services to the Applicant, that there was on the part of the Defendant the deliberate withholding or misrepresentation of information vital to the protection or treatment of the Applicant's health; that there was a refusal on the part of the Defendant to supply the aforementioned medicine, that there was omission or failure on the part of the Defendant to take the necessary measures arising from legal obligations to import the aforementioned medicine.

82. The onus was on the Applicant and he failed to do so. (See in this sense the case *FEMI FALANA AND ORS v. THE REPUBLIC OF BENIN AND ORS,* Judgment no. ECW/CCJ/JUD/02/12, in LR page 1 to 18; *FANTA CISSE v. STATE OF GUINEA*, Judgment No. ECW/CCJ/JUD/21/2021, paras. 226 and 227; *ADVOCAID LTD v. REPUBLIC OF SIERRA LEONE*, Judgment No. ECW/CCJ/JUD/33/24, para. 52).

83. In the instant case, it can be found that the Defendant State has demonstrated its willingness to comply with the Applicant's request, authorizing the import of the said medicine and providing him with the necessary information to acquire it. However, as alleged by the Defendant, the Applicant did not follow the guidelines given to him by the INPS in order to obtain the medicine he intended.

84. In this sense, the Court finds that the Defendant did not violate Articles 16 of the African Charter; 12 of the CFSP and 25 of the UDHR.

X. COSTS

85. The parties said nothing about the payment of expenses.

86. Article 66 (1) of the Rules of the Court establishes that "*A decision as to costs shall be given in the final judgment or in the order, which closes the proceedings.*"

87. Furthermore, Article 66(2) of the Rules provides that "*The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings*".

88. Therefore, in the light of the above provisions, the Court determines that the parties shall bear their own costs of the proceedings, as shall be settled by the Chief Registrar.

XI. OPERATIVE CLAUSE

89. For these reasons, the Court held a public hearing and having heard the parties:

On Jurisdiction

i. The Court declares itself competent;

On the Admissibility:

ii. Declares the application admissible.

The merits of the case:

iii. **Declares** that the Defendant did not violate the Applicant's right to health, in accordance with Articles 25 (1) of the UDHR, 12 (1) of the ICESCR and 16 of the African Charter.

As a result,

iv. All the other claims are dismissed as unfounded.

On the expenses:

v. The parties shall bear their own costs of the proceedings.

Signed by:

Hon. Justice Ricardo C. M. GONÇALVES - Presiding/Judge Rapporteur

Hon. Justice Sengu Mohamed KOROMA – Member

Hon. Justice Dupe ATOKI – Member

Dr. Yaouza OURO-SAMA- Chief Registrar

90. Done in Abuja on 7th April 2025, in Portuguese and translated into English and French.