THE COMMUNITY COURT OF JUSTICE OF THE

ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

In the Matter of

THE INCORPORATED TRUSTEES OF PRINCE & PRINCESS CHARLES OFFOKOJA FOUNDATION & ANOR. V FEDERAL REPUBLIC OF NIGERIA

Application No: ECW/CCJ/APP/39/23 Judgment NO. ECW/CCJ/JUD/02/25

RULING

LAGOS

DATE: 13th May, 2025.

1. **THE INCORPORATED TRUSTEES OF PRINCE & PRINCESS CHARLES OFFOKOJA FOUNDATION** **-APPLICANTS**
2. **PRINCE & PRINCESS CHARLES OFFOKOJA FOUNDATION, SWITZERLAND**

V.

FEDERAL REPUBLIC OF NIGERIA **-RESPONDENT**

COMPOSITION OF THE COURT:

Hon. Justice Sengu Mohamed KOROMA -Presiding/Rapporteur

Hon. Justice Dupe ATOKI -Member

Hon. Justice Amoako ASANTE -Member

ASSISTED BY:

Dr. Yaouza OURO-SAMA - Chief Registrar

REPRESENTATION OF PARTIES:

Prince Charles OFFOKOJA - Counsel for the APPLICANTS

Maimuna Lami SHIRU - Counsel for the RESPONDENT

I. I. Hassan

I. JUDGMENT

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

II. DESCRIPTION OF THE PARTIES

2. The First Applicant is the Incorporated Trustees of Prince & Princess Charles Offokaja Foundation Nigeria, a Non-Governmental Organization, established under the laws of the Federal Republic of Nigeria.
3. The Second Applicant is Prince & Princess Charles Offokaja Foundation, Switzerland, an affiliate of the First Applicant and a Non-Governmental Organization established under the Swiss law.
4. The Respondent is the Federal Republic of Nigeria and a Member State of ECOWAS.

III. INTRODUCTION

5. The present claims before the Court are premised on the alleged failure of the Respondent to ensure a fair hearing within a reasonable time in a pending case before the Respondent's Court of Appeal with Appeal No: CA/LAG/CV/350/2019; and in the case of Ekulo Farms Limited against Union Bank of Nigeria PLC before the national court of the Respondent in: Suit No. O/402/92; Suit No. O/258/94; Appeal No. Ca/E/129/97; SC. 306/2001; and Suit No: LD/573/2008. These cases according to the Applicants have lingered for thirty-one years, thereby constituting a breach of Article 7 (1) of the African Charter on Human and Peoples' Rights (ratified by the Respondent) resulting in a violation.

IV. PROCEDURE BEFORE THE COURT

6. The Applicants filed an Initiating Application on 28th September 2023, in the Registry of the Court.
7. Subsequently, they filed an application for Judgment by Default on the 16th November 2023, in the Registry of the Court.
8. On 13th December 2023, the Registry was seised of the Respondent's Defense.
9. A while later, on 21st December 2023, the Respondent filed a Motion for the Extension of Time, a Preliminary Objection, Statement of Defense and Statement of facts in the Registry of the Court.
10. On 29th January 2024, the Respondent filed a Response to the Applicants' Application for Judgment by Default in the Registry of the Court.
11. In response to the Respondent's Preliminary Objection, Statement of Defense and Opposition to the Initiating Application, the Applicants filed three replies on the 7th February 2024, in the Registry of the Court.
12. Following this, the Applicants filed a Sur-Reply to the Respondent's Reply to the Application for Default Judgment on 19th February 2024.

V. APPLICANT'S CASE

a) Summary of facts

13. The facts narrated by the Applicants are premised on a prolonged legal dispute arising from a loan agreement between the late Boniface Offokaja's family and Union Bank of Nigeria PLC. Boniface Offokaja, a farmer residing with his family on his farmland at kilometer 11 Onitsha Owerri Road, whose company Ekulo Farms Limited, had a longstanding banking relationship with Union Bank, regularly obtaining and repaying loans without legal disputes. However, the dispute began with a loan agreement of N750, 000.00 applied for by the Ekulo Farms Limited from Union Bank of Nigeria PLC.

14. The Applicants submit that the loan was not disbursed to the Ekulo farms as the documents were never perfected. Notwithstanding this, the Bank proceeded to charge arbitrary interest on the non-existent loan which was intended to be part of an agricultural loan scheme guaranteed by the Central Bank of Nigeria (CBN). Ekulo Farms (the borrower) had a three measure security which included CBN certificate (No AN/UBN/81/9, which authorized Union Bank to recover the N750, 000 loan sum from CBN in the event of default by Boniface' company, a building and a floating debenture. When a dispute arose between the borrower and the bank, the Applicant claims that the Bank wrongfully took the additional security, including a piece of land measuring 7.631 hectares at Owerri Road Akwu-ukwu, which belonged to Boniface Offokaja. It is their claim that the said property was previously mortgaged for a separate, unrelated loan that was being serviced. This wrongful use of the property as collateral for an undisbursed loan became the crux of the litigation, as the Bank attempted to sell the property.

15. The Applicants claim that the dispute between Ekulo Farms, which is Boniface Offokoja's company, and the bank went through multiple levels of litigation reaching the Supreme Court, where the company won a unanimous judgment against Union Bank and the latter was fined. They narrate that the Supreme Court ordered the matter back to the High Court however, the bank went on to sell the land unlawfully. The piece of land sold however, was tied to a loan that had been paid off and the Applicant submitted evidence of a Deed of Release dated 10th July 1986. They submit that the act of sale by the Bank was in defiance of the order of the Court which subsequently triggered further litigation in Suit No: LD/573/2008 that lasted for 10 years due to excessive delays. These suits were not only financially burdensome but also caused severe distress, impacting Boniface Offokaja's financial stability, due to high legal costs, the

quality of life of the family, psychological well-being of his aging widow, loss of income, reputation, and livelihood, secondary victimization, as the family continued suffering despite winning their case.

16. The Applicants claim that from the initial trial in 1992 to the filing of the present application in 2023 in this Court, the case has dragged on for thirty-one years, reflecting systemic inefficiencies in the Respondent's judicial system. This is submitted against the 2018 decision of the High Court that found the Union Bank liable. However, the six-year statute of limitations for executing the judgment expires in 2024. Despite the judgment, the Offokaja's have not been able to retrieve their original property ownership documents from Union Bank, putting them at risk of losing their land permanently. Meanwhile, Union Bank has filed an appeal at the Court of Appeal, but like previous proceedings, the appeal has been delayed for four years without a single court sitting. At the time of filing this application in 2023, the appeal has not been heard, violating the right to a fair hearing of the Offokaja family.

17. It is their claim that the Offokaja family remain uncertain about when they will finally obtain justice, especially as the late Boniface spent decades in litigation without seeing the resolution of his case before his passing. The delay in justice has caused irreparable damage, including the denial of closure for his widow which is contrary to the right to a fair hearing within a reasonable time. These prolonged delays according to the Applicants amount to a failure of the justice system, depriving the Offokaja family of their rights and leaving them in legal and financial limbo.

18. Consequently, the Applicants are seeking for a timely resolution to their case and an effective remedy for the injustice suffered over the past three decades.

b) Pleas in law

19. The Applicants relied on the following legal provisions in support of their case:

- Article 33 of the Rules of the ECOWAS Community Court of Justice.
- Articles 11 & 12 of the Protocol (A/P1/7/91) on the Community Court of Justice.
- Article 4 (g) and 4(h) of the Revised Treaty of the Economic Community of West African States.
- Articles 1, 2, 3, 7(1)(d), 16(1), 26 of the African Charter on Human And Peoples' Rights.
- Article 15 of the Articles on the Responsibility of States for Internationally Wrongful Acts.
- Article 31(3)(c) of the Vienna Convention on the Law of Treaties.
- Article 6(1) of the European Convention on Human Rights.
- Article 8(1) of the American Convention on Human Rights.

c) Reliefs sought

20. The Applicants are seeking for the following reliefs from the Court:

i. A declaration that the Respondent has violated the right of the members of the Boniface Offokaja Family to trial within a reasonable time under the African Charter in the adjudication of APPEAL NO: CA/LAG/CV/350/2019 contrary to Article 7(1)(d) of the African Charter. (Legal proceedings in APPEAL NO: CA/LAG/CV/350/2019 have been excessively delayed or prolonged, infringing upon the right to fair hearing of the Boniface Offokaja Family, and having a deleterious impact on the fairness and effectiveness of the legal process.)

ii. A declaration that the Respondent has violated the right of the members of the Boniface Offokaja Family to fair hearing under Article 7(1) of the African Charter in SUIT NO: LD/573/2008, the related cases preceding it, and its appellate case APPEAL NO: CA/LAG/CV/350/2019, taken together as a composite act within the meaning of Article 15 of the Articles on the Responsibility of States for Internationally Wrongful Acts, ARSIWA by failing to ensure fair trials within a reasonable time. (Leading to many harms on members of the family over time.).

iii. An order compelling the Respondent to strike out APPEAL NO: CA/LAG/CV/350/2019 for the violation of the right of the late Boniface Offokaja and members of his family to a fair hearing. Or, alternatively, an Order compelling the Respondent to ensure an expedited trial in APPEAL NO: CA/LAG/CV/350/2019 and any other related case coming after it.

iv. An order compelling the Respondent to pay compensatory damages of $100,000 (One Hundred thousand US Dollars) to each of the 8 surviving members of the Boniface Offokaja Family, (Boniface Offokaja's widow Ndidi Offokaja, and their 7 children, Maureen, Chinedu, Jennifer, Pamela, Vivian, Fred, and Grace) for denial of closure to Boniface Offokaja, extreme delay of closure to Boniface Offokaja's Aging Widow Ndidi Offokaja as she ages, prolonged delay of closure for other members of the Boniface Offokaja Family, anxiety, uncertainty, demoralization, loss of income, loss of reputation, secondary victimization, and deleterious impact on livelihood and lifestyle due to the Respondent's violation of their right to a fair hearing . In addition, an Order compelling the

Respondent to pay an additional compensation of $100,000 (One Hundred thousand US Dollars) for the purpose of reversing the loss of reputation of the late Boniface Offokaja. This additional compensation shall be paid to his widow, Ndidi Offokaja who shall manage and allocate the funds appropriately in an effort to restore her late husband's tarnished image to what it most likely would have been had the violations of Boniface Offokaja's right to fair hearing by the Respondent not occurred. If the honourable Court deems it fit, the damages can be paid by the Respondent into the first Applicant's Polaris Bank account for onward distribution to the members of the Boniface Offokaja Family in the manner outlined above (Polaris Bank account name: Prince Charles And Princess Charles Offokaja Foundation (account number 1771770409)), with the Applicant mandated to report to the court within a week of the receipt of the funds-for-distribution from the Respondent; and also to report back to the honorable Court within a month of the receipt on its transparent distribution of the funds to the victims.

v. An Order Compelling the Respondent to submit a report on its steps to implement this judgement within six months of judgement.

vi. Any other relief that the honorable Court may deem fit to grant the victims in the instant case.

VI. RESPONDENT'S CASE

a) Summary of facts

21. The Respondent filed its defence, facts and pleas in law, and a preliminary objection on the same day. The Court having heard the preliminary objection first, will proceed to determine same.

VII. PROCEEDINGS BEFORE THE COURT

Preliminary Objection

22. The Respondent's preliminary objection is grounded thus:

    a. The subject matter does not fall within the purview of Article 9 of the Supplementary Protocol [A/ SP.1/01/05] amending the Protocol [A/P1/7/91] relating to the Community Court of Justice.

    b. The ECOWAS Court does not operate as an appellate Court to local Courts of Member States.

    c. The subject matter of the suit relates to banker customer relationship and cannot be traced under the jurisdiction of this Court.

    d. There is no reasonable cause of action disclosed against the Respondent.

23. The Respondent argues vehemently that the claims of the Applicants fall outside the purview of the Article 9 of the Protocol of the Court (A/P1/7/91) as amended by the Supplementary Protocol (A/SP.1/01/05) relating to the Community Court of Justice; and finely articulated in AFOLABI OLAJIDE V FEDERAL REPUBLIC OF NIGERIA (2004) (CCJELR). It avers that a claim bordering on domestic affairs are completely outside of the remits of the Court. Furthermore, it argues that the Court does not have supervisory role or appellate powers over domestic courts and relies on the various jurisprudence of the Court, to wit, CENTER FOR DEMOCRACY AND DEVELOPMENT & 1 OR. V MAMADOU TANJA & ANOR. (2011) CCJELR, MR. MOUSSA LEO KEITA V REPUBLIC OF MALI (2007) CCJELR. For these reasons, the Respondent prays the Court to strike out the claims.

VIII. APPLICANTS' REPLY TO THE PRELIMINARY OBJECTION

24. The Applicants' response to the Respondent's preliminary objection is that their claim falls within the scope of Article 9 of the Protocol (supra), as it concerns their fundamental right to a fair hearing within a reasonable time, guaranteed under Article 7(1) (d) of the African Charter on Human and Peoples' Rights.

25. The Applicants contend that their application is not an appeal of the banker-customer dispute but rather a demand for effective remedies against the excessive delay in resolving their dispute, which they argue violates the Respondent's human rights obligations under international law.

26. They emphasize that they are not asking the Court to act as an appellate body over national court decisions but to compel the Respondent to remedy its failure to ensure a timely hearing, particularly as the Court of Appeal has adjourned the case indefinitely.

27. It is the claim of the Applicant that the underlying dispute with Union Bank Plc is irrelevant to determining whether the Respondent has violated their right to a fair hearing within a reasonable time.

28. They conclude that the Respondent's claim that no reasonable cause of action has been disclosed in the Initiating Application is untrue as the acts of commission or omission by the judiciary of a sovereign state are attributable to the state under international law and the principle of separation of powers does not apply.

Analysis of the Court

29. In determining the preliminary objection raised by the Respondent, the Court will consider each of the four grounds raised by the Respondent alongside the

contention of the Applicants thereto, seriatim. Before proceeding with its determination the Court is mindful to clarify that certain provisions relied on by the Applicants i.e. Article 6 (1) of the European Convention on Human Rights and Article 8 (1) of the American Convention on Human Rights are not binding on the Respondent as they have not signed and ratified either of them. Hence the analysis of the Court will be devoid of references of the said provisions.

- ***The subject-matter does not fall under the purview of Article 9 of the Protocol (A/SP.1/01/05) as amended by the Supplementary Protocol (A/P1/7/91) relating to the Community Court of Justice.***

30. The Court notes that the Respondent's first contention is that the claim falls outside its competence. It behooves the Court therefore, to recall the premise of the Applicant's claim which is for the breach of Article 7 of the African Charter on Human and Peoples' Rights. A claim under the African Charter on Human and Peoples' Rights falls under the human rights mandate of the Court pursuant to Article 9 (4) of the Protocol (supra). This article provides that *"[T]he Court has jurisdiction to determine cases of violation of human rights that occur in any Member State."* What this implies is that the Court is seised with subject matter jurisdiction for claims of human rights. Hence in ALADETOYINBO V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/18/20 (Unreported) at page 8, the Court held that "*A mere allegation of human rights violation is enough to confer jurisdiction on it and its jurisdiction is established once the facts brought before it relate to human rights violation and where the main purpose of the application is for the court to find that there is occurrence of such violation in a Member State.*"

31. The Court in this instance, considers that it is vested by law with competence to determine the present claims as they border on human rights violation.

32. In this regard, the Court considers the contention raised on the fourth ground, to wit that "*There is no reasonable cause of action disclosed against the Respondent*" has been jettisoned. The Court firmly aligns with its jurisprudence in THE REGISTERED TRUSTEES OF JAMA'A FOUNDATION & 5 ORS. V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/04/20 (Unreported) at page 20, where it described the concept as *"A cause of action is a matter for which an action can be brought, a legal right predicated on facts upon which an action may be sustained. It is a right to bring a suit based on factual situations disclosing the existence of a legal right.it is often used to signify the subject matter of a complaint or claim on which a given action or suit is grounded whether or not legally maintainable."* It is evident that the facts depict that the claim is premised on human rights violations, to wit Article 7 of the ACHPR. Due to this the Court finds it imperative to instruct that its competence is intertwined with the cause of action of the claim. Thus, having clearly determined that the claim of the Applicants is within its power of adjudication, the Court further declares that a cause of action has been established.

33. Consequently, the Court declares that is has the competence to determine the claims and overrules the objection on first and fourth grounds.

- ***The ECOWAS Court does not operate as an appellate court to local courts of Member States***

34. The Court recalls the Respondent's second contention that it lacks the competence to sit on appeal over decisions of national courts. The basis of this argument is that entertaining the present application would amount to a review or appellate consideration of a municipal Court's decision, which is beyond the jurisdiction of this Court.

35. The Court has consistently held that it is not an appellate Court to national courts and reaffirmed this in its decision in JUSTICE JOSEPH WOWO V REPUBLIC OF THE GAMBIA, JUDGMENT NO: ECW/CCJ/JUD/09/19 (Unreported) at page 15; where it held that "*This court has no jurisdiction to adjudicate on a judgment delivered by a court of a Member State.*" However, the Court is inclined to draw a clear distinction between its lack of jurisdiction to examine the decisions of national Courts and its jurisdiction to hear cases of human rights abuses arising from the procedure of same. What this means is that claims that in the course of proceedings some human rights violation has occurred, the Court will assume jurisdiction. It will not look at the subject matter of the proceedings in the national court but it will look at the proceedings in line with laid down principles of natural justice and the obligations of the Respondent under various human rights treaties. Its decision in HIS LORDSHIP JUSTICE PAUL UUTER DERRY & 2 ORS v. THE REPUBLIC OF GHANA, JUDGMENT NO: ECW/CCJ/JUD/17/19 (Unreported) at page 28 is a reflection of the Court's position.

36. The facts and evidence before the Court is that the claim has been brought before this Court for a violation of Article 7 of the African Charter on Human and People's Rights to wit:

> *"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 convention, 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...*"

37. The facts pertain to several civil claims and decisions in the domestic court and a claim of an unreasonable time frame in dispensing with these claims. It is this time frame that the Applicant has submitted borders on a breach of Article 7 (supra), thereby resulting in a violation. Consequently, the duty of the Court is to identify the Respondent's obligation under Article 7, then it can determine whether the Respondent's act/omission has occasioned a breach of its obligation thereunder which may have resulted in a violation. In doing so, the Court will need to consider the merits of the claims before it.

38. Consequently, the Court finds that due to the fact that the claim is premised on a breach of a fundamental human rights which has allegedly occasioned a violation, it overrules the second objection.

- ***The subject matter of the suit relates to banker customer relationship and cannot be traced under the jurisdiction of this Court.***

39. The Court recalls the third contention raised by the Respondent which pertains to the pre-condition of admissibility rather than jurisdiction. This is because even though the Respondent has coined the ground as a jurisdictional issue, the Court views the ground together with the previous ground. In doing so, it is apparent that the claim has been brought under Article 9 (4) of the Protocol of the Court, the question then for the Court is whether the claim has been brought against the proper party and the persons instituting same have the necessary *locus standi* to do so.

40. In answering this question, the Court is bound to consider the admissibility criteria pursuant to Article 10 (d) of the Protocol of the Court to wit: *"...individuals on application for relief for violation of their human rights; the submission of application for which shall: i) not be anonymous; nor ii) be made whilst the same matter has been instituted before another International Court for adjudication."* It was long settled by the Court that "*All claims brought before this Court must pass the test of admissibility whether or not it is challenged. Article 10 (d) of the Supplementary Protocol (supra) grants access to individuals seeking relief for the violation of human rights on the condition that the claim is neither anonymous nor pending before another international court,* MATTHEW ISABU V. FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO. ECW/CCJ/JUD/41/22 (Unreported) at page13 para 43.

41. Having previously determined that the claim has been brought for breach of Article 7 of the ACHPR, the Court considers the claim to be well within its competence. However, it cannot readily dispense with admissibility without first determining whether the Applicants possess the capacity/*locus standi* as victims of a human rights violation to bring the claim. It is evident that Article 10 (d) of the Protocol (supra) requires that individuals seeking reliefs for violation of their human rights should not be anonymous of the claim should not be pending before another international court. This requirement is threefold: there must be a victim, said victim must not be anonymous and the claim must not be pending before another international Court.

Victim Status

42. The Applicants, in the Initiating Application at paragraph 12 denotes that they have been granted a mandate from the victims to act in a representational capacity and adduce Annexure B, in support of this.

43. The Court notes that there are two Applicants: first being an NGO established under Nigerian law and the second is an affiliate of the first but established under Swiss law. Before delving into its determination of *victim status* the Court must consider the status of the Applicants; even though they purport to be legal persons established by law only the First Applicant has adduced evidence corroborating this. Evidence establishing the legal personality of the Applicants, being incorporated or established under the laws of Member States is necessary to determine capacity. Hence the Court aligns itself with its jurisprudence in THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) v. FEDERAL REPUBLIC OF NIGERIA & 8 ORS (2010) CCJELR at page 231, paragraph 61 where it held that "*...taking into account the need to reinforce the access to justice for the protection of human and peoples' rights in the African context, the Court holds that an NGO duly constituted according to national law of any ECOWAS Member State and enjoying observer status before ECOWAS institutions, can file complaints against Human Rights violations in cases that the victim is not just a single individual, but a large group of individuals or even entire communities*." Without more, what underscores this *ratio* is the geographical jurisdiction envisaged in Article 9 (4) of the Protocol, to wit "*...occurring in Member States*." The Court views representation by NGOs for human rights violations should be done by those who have obtained vested legal personality from a Member State.

44. Consequently, the Court considers that the First Applicant has the requisite legal personality to act as legal counsel in this instance and strikes out the Second Applicant; the latter have not met the criteria.

45. Thus, the Court will proceed its determination as to the victim status of the First Applicant. Due to the First Applicant's submission that the claim has been

brought in a representative capacity, that is on behalf of the direct victims, the Court is required to not only confirm the mandate but to also determine the capacity of the person/s giving the mandate.

46. As to the First Applicant acting in a representational capacity; it is settled practice that an individual or legal person can bring an action before the Court in representational capacity. The Court in REV. FR. SOLOMON MFA & 11 ORS v. FEDERAL REPUBLIC OF NIGERIA & 5 ORS, JUDGMENT NO: ECW/CCJ/JUD/06/19 (Unreported) at page 16 & 17 held that "*Individuals who are non-direct victims can ground an action before the court if they are a relative of the direct victim of a violation of human rights, but such non-direct victim must provide a mandate for such representation from the victim except where the victim is deceased or prevented from so doing one way or the other.*"

47. This ratio is coined from a pertinent pillar of the principle of natural justice, which allows persons who cannot readily prosecute a violation the opportunity to do so through a proxy. Hence in the present case, where the First Applicant has obtained a signed mandate from one Ndidi Offokaja, the question for the Court is whether the said grantor is a victim. It is only if she is a victim, either directly or indirectly, can she be well placed to issue a mandate to the First Applicant for it to act in a representative capacity in this case.

48. In answering the question, the Court will first elucidate on the concept of direct and indirect victim to lay the foundation of how said person/s can give a mandate to act.

49. The Court relies on the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the United Nations General Assembly on 16th December 2005, which defines a victim under Principle 8 as: "... *persons who individually or collectively*

suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international *humanitarian law. Where appropriate, and in accordance with domestic law, the term 'victim' also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization."*

50. Hence, an immediate family member is an indirect victim who can claim for a violation. However, the Court is mindful that an indirect victim may need to support their claim with evidence establishing the said relationship. A statement attesting to relationship with the direct victim is insufficient to successfully claim as a direct victim. Therefore, the onus of the grantor of the mandate must show the status as a direct victim, or indirect victim.

51. The facts show that the crux of this case arises from a banker-customer relationship between the late Boniface Offokaja and Union Bank of Nigeria PLC, and the former is now deceased. Consequently, the right to institute any action before the Court devolves upon his close relatives, such as his wife and children. The First Applicant's Initiating Application has Annexure B, which is submitted as the mandate to act in a representative capacity issued by someone described as the widow of the deceased. This mandate was drawn out on behalf of the said widow and seven children, who were named severally.

52. The Court aligns with the requirement laid down in African Court's decision in BEEFICIARIES OF LATE NORBERT ZONGO & OTHERS V BURKINA FASO, APPLICATION NO. 013/2011 (JUDGMENT ON REPARATIONS), at pages 17 – 18, paragraphs 50- 54; where it was held that spouses are required to produce a marriage certificate or an equivalent proof or their union, while

children must provide a birth certificate or similar documentary evidence of filiation.

53. This jurisprudence was further relied on and articulated by this Court in ATTIPOE KUAKU RICHARD & 19 ORS. (DECEASED) REPRESENTED BY ATTIPOE CHOCHO BABAYI & 15 ORS. V REPUBLIC OF SIERRA LEONE, JUDGMENT NO: ECW/CC/JUD/07/23 (Unreported) at page 46 where it held that an indirect victim must prove their relationship with the direct victim through credible evidence as the Court cannot accept such claims at face value.

54. Having carefully perused the facts and evidence before it, the Court finds no evidence establishing that the grantor of the mandate, is the wife of the direct victim. Furthermore, the Court finds no evidence corroborating the filial relationship of '*members of the Boniface Offokoja family*' namely Maureen, Chinedu, Jennifer, Vivian, Fred and Grace with the deceased. The Court finds the letter, which is Annexure B aforesaid, a mere statement of facts granting a mandate to the First Applicant to act. However, this letter lacks the authority to grant a mandate as the grantors therein have not established a relationship with the victim to enable them give the First Applicant the authority to represent her and her children.

55. The Court therefore answers the question previously posed in the negative which is that the grantors of the mandate are neither a direct nor indirect victims. Consequently, the letter purporting to give the First Applicant the mandate to act in a representational capacity has no legal basis. The Court therefore, declares that the First Applicant lacks the requisite *locus standi* to institute the claim before it.

56. Based on the foregoing, the Court sustains the objection of the Respondent on the third ground. Consequently, the application is declared inadmissible and dismissed.

IX. COSTS

57. The Court is mindful that it is mandated under Article 66 of the Rules of the Court to give a decision as to costs to close the proceedings. In this regard, the Court notes that neither party has prayed for costs therefore, it is inclined to rely on Article 66 (12). This article provides that *"[W]here a case does not proceed to judgment the costs shall be in the discretion of the Court."*

58. The Court consequently orders that the parties are to bear their own costs.

X. OPERATIVE CLAUSE

59. For the reasons stated above the court sitting in public after hearing both parties:

As to jurisdiction:

i. **Declares** that it has jurisdiction.

As to admissibility

ii. **Declares** the application inadmissible and sustains the Preliminary Objection of the Respondent.

iii. **Dismisses all claims.**

COSTS:

i. Parties are to bear their own costs.

Hon. Justice Sengu Mohamed KOROMA-Rapporteur .....

Hon, Justice Dupe ATOKI .....

Hon. Justice Amoako Edward ASANTE .....

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

