IN THE COURT OF JUSTICE OF THE ECONOMIC COMMUNITY

OF THE WEST AFRICAN STATES (ECOWAS)

In the Matter of

Mrs. AFANVI AKUYO

V.

THE TOGOLESE REPUBLIC

Application No. ECW/CCJ/APP/29/22 - Judgment No. ECW/CCJ/JUD/11/25

JUDGMENT

ABUJA

On 17th March, 2025

SUIT No ECW/CCJ/APP/29/22

JUDGMENT No. ECW/CCJ/JUD/11/25

BETWEEN

Mrs. AFANVI AKUYO **APPLICANT**

AND

THE TOGOLESE REPUBLIC **DEFENDANT**

COMPOSITION OF THE PANEL

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

Hon. Justice Sengu Mohamed **KOROMA** - Member

Hon. Justice Dupe **ATOKI** - Member

ASSISTED BY:

Dr Athanase Atannon – Deputy Chief Registrar

REPRESENTATION OF THE PARTIES

SCPA Femiza Associes - Counsel for the Applicant

Monsieur le Garde des Sceaux - 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. DESCRIPTION OF PARTS

2. The Applicant is Mrs. Afanvi Akuyo, of Togolese nationality, born on April 30, 1974, trader, resident and domiciled in Lomé-Togo, Adamavo district.
3. The Defendant is the Togolese Republic, a Member State of ECOWAS.

III. INTRODUCTION

4. On April 1, 2020, the Togolese Republic declared a state of health emergency in response to the COVID-19 pandemic, adopting various containment measures, including the "Novissi" program, created to support citizens who had lost income. Mrs. AFANVI Akuyo, a Togolese citizen, found herself in an unexpected situation when her cell phone, which she had lost, was used by a third party to carry out fraudulent transactions under the said program, without her knowledge.
5. On May 27, 2020, plainclothes officers from the National Police Intervention Group (GIPN, in French for "Groupe d'Intervention de Police Nationale") broke into her home and violently arrested her in the presence of her children. While in custody, she was charged with fraud, complicity and criminal conspiracy, and remained handcuffed throughout her detention under inhumane conditions. Her family, in desperation, made

several efforts to locate her, but the authorities provided no information, saying only that the case was "related to the presidency".

6. A few days later, Ms. AFANVI was located in the GIPN camp, where she remained in detention until she was transferred to the Central Directorate of the Criminal Police (DCPJ, in French for "Direction Centrale de Police Judiciaire"). She was later publicly exposed as a fraudster through reports on television and in the press. After testing positive for COVID-19, she was transferred to Tsévié civil prison and later to Lomé civil prison. After six months in detention, she was released on May 5, 2021.

IV. PROCEEDINGS BEFORE THE COURT

7. The application initiating proceedings (doc.1) was registered at the Registry of this Court on 1st July, 2022.
8. On July 4, 2022, application was duly served on the Togolese Republic
9. On January 30, 2024, the Registry of the Court of Justice registered the application for judgment by default (doc. 2).
10. On January 31, 2024, the application for judgment by default was served on the Togolese Republic, which said nothing.
11. At the virtual hearing held on 11 November 2024 to hear the parties on the merits of the case, the Applicant was represented and presented her oral arguments, while the Defendant State was absent. The case was adjourned for judgment on 17th March, 2025, after the deliberation by the panel of Judges.

V. THE APPLICANT'S CASE

a. Summary of Facts

12. On April 1, 2020, the Head of State of the Togolese Republic declared a state of health emergency, to last for three months to be in force. This decision was taken as part of a set of strategic measures aimed at containing the spread of the COVID-19 virus in Togo. Among the initiatives launched in this context was the "Novissi" cash transfer program, which was designed to financially assist all eligible Togolese citizens who had suffered a loss of income due to the pandemic and the restrictive measures imposed to combat it.
13. Mrs. AFANVI Akuyo was one of the citizens affected by the circumstances created by the pandemic. After losing her cell phone, it was used by a third party, without her knowledge, to carry out fraudulent transactions under the Novissi program. Unaware of this situation, Mrs. AFANVI recovered her phone number after eight days, but did not suspect that the SIM card connected to her cell phone was being used for the said transactions.
14. On May 27, 2020, in the afternoon, Mrs. AFANVI Akuyo was at home when police officers and plainclothes officers from the GIPN forcibly entered her home. The officers detained her violently, and handcuffed her in front of her children. They put a hood over her head and transported her to the GIPN camp. On arrival at the camp, she was informed that she was being accused of fraud, complicity in fraud and participation in a criminal conspiracy.
15. During her detention, Mrs. AFANVI was unable to communicate with her family to inform them of her situation. In addition, the authorities prevented her from answering her cell phone while in custody. As a result, she was deprived of the right to notify her relatives of what had happened to her.
16. While under police custody, Ms. AFANVI was kept handcuffed at all times, both day and night. During her menstrual period, she was not provided with any sanitary protection and, as she was not allowed to take

her clothes with her during her detention, she had to ask a security officer to get sanitary pads for her. Ms. AFANVI was also forced to sleep on the floor of a cell, which she shared with men, without any measures to protect her dignity or physical safety.

17. After her arrest, Mrs. AFANVI's relatives began a search on their own to find her whereabouts. They visited several police stations and brigades across the country, but to no avail. In the various police units, the officers said that the case was "related to the presidency" and therefore they could not provide any information.

18. After several attempts to contact her, Mrs. AFANVI's brother-in-law finally managed to get in touch with the captain responsible for her arrest. The captain informed him that it would not be possible to visit her due to the needs of the ongoing investigation, but assured him that she would be released soon. However, the captain did not give any information about the exact location of her detention.

19. After many contacts, Mrs. AFANVI's relatives suspected that she was being held at the Central Criminal Investigation and Intelligence Service (SCRIC, in French for "Service Central de Renseignements et d'Investigations Criminelles"), a place known for detaining people without notifying their families. With this information, they went to SCRIC and, after explaining the facts, they were informed that Mrs. AFANVI was in fact in the GIPN camp.

20. On June 5, 2020, Mrs. AFANVI's brother-in-law went to the GIPN camp, where he was able to see her. However, he was not allowed to speak to her directly; he could only communicate through a wall, under surveillance by an agent.

21. On June 6, 2020, with the support of the NGO Compassion and a group of parishioners for whom Mrs. AFANVI worked, the family returned to the GIPN camp, along with a representative of the parish. On this occasion,

they were able to visit her for about five minutes, but always in the presence of an agent. The family described Mrs. AFANVI as being visibly terrified, physically weak and suffering from significant psychological damage due to the conditions in which she was detained.

22. On May 30, 2020, Ms. AFANVI was transferred to the Central Directorate of the Criminal Police (DCPJ). Later, on June 8, 2020, she was presented to the media as a fraudster, in a television report that exposed her face and identity. The said report was broadcast by Togolese Television (TVT) on its 08:00 pm news program. The report was also published on YouTube the following day. In addition, the newspaper "Togo Presse" published an article on June 11, 2020, in which Mrs. AFANVI was identified with a photograph that would allow her to be recognized.

23. A few days after her transfer to the DCPJ, Ms. AFANVI tested positive for COVID-19. As a result, she was transferred to Tsévié's civil prison, without being able to remember the exact date due to the psychological shock she suffered. The period of police detention at the Central Directorate of the Criminal Police ended on 29 June 2020 and on 7 July 2020 she was transferred to the civil prison in Lomé along with other detainees.

24. During the entire period of her detention, Mrs. AFANVI was heard by the judge in charge of her case only once. Her family submitted two requests for provisional release, both of which were rejected. After six months in Lomé prison, she was released on May 5, 2021, following a partial decision issued by the investigating judge. Four days before her release, Mrs. AFANVI was transferred to a hotel for quarantine.

b. Pleas in Law

25. The Applicant based her allegations on Articles:

i. 5, 9, 11(1) and 12 of the Universal Declaration of Human Rights of December 10, 1948 (UDHR);

ii. 5, 6 and 7 (1b) of the African Charter;

iii. 9 (1), 9 (5), 10 (1), 14 (2) and 14 (3) of the International Covenant on Civil and Political Rights of December 16, 1966 (ICCPR);

iv. 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984 (CAT).

26. She also relied on the case law of this Court.

c. Reliefs Sought

27. The Applicant concludes by praying the Court to:

i. Order the opening of an investigation to identify and hold accountable the agents responsible for the acts committed, on the basis of Article 12 of the Convention Against Torture, and that the honor of Mrs. AFANVI Akuyo be restored, as provided for in Article 4 of the same convention.

ii. Order the Togolese Republic to make reparation for the damage caused, in accordance with Article 14 of the CAT and the Principles and Guidelines on the Right to Reparation adopted by the United Nations General Assembly. Order reparation which should include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

iii. Order the Togolese Republic to pay compensation of one hundred million (100,000,000) FCFA, in accordance with Article 14 of the CAT and Article 9(5) of the ICCPR.

VI. THE DEFENDANT'S CASE

28. The Defendant, although duly served on July 4, 2022, did not lodge any defense.

VII. PROCEDURE BEFORE THE COURT

Application for Judgment by Default

29. The Defendant did not submit any defense in response to the proceedings brought by the Applicant, despite having been duly served by the Court.

Application for judgment by default.

30. Following the Defendant's failure to file a defense, the Applicant, pursuant to Article 90 of the Rules of the Court, filed an application for judgment by default, asking the Court to do the following:

    Declare that the Togolese Republic, duly served since July 2022, did not lodge a defense within the stipulated time limits or in an appropriate manner;

    Declare the Applicant's claims contained in the originating application to be well founded;

    Order the Togolese Republic to pay the costs.

    This application was served on the Defendant, which said nothing about it.

The Court's Analysis of the Application for Judgment by Default

31. As the Defendant failed to present its defense within the thirty-day period it had to do so, the Applicant requested a judgment by default, under the terms of Article 90 of the Regulations, which reads as follows:

32. Article 90 (1) *"If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defense to the application in the proper form within the time prescribed, the applicant may apply for judgment by default."*

33. Article 90(4) "Before giving judgment by default the Court shall, after considering the circumstances of the case consider: *whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded."*

34. The requirements laid down in Article 90(4) relate to questions of jurisdiction, admissibility and evidence, which must be addressed before the merits of the application can be examined (see the case of *MOHAMED EL TAYIB BAH v. REPUBLIC SIERRA LEONE (2015) CCJELR ON PAGE 193).*

35. The facts presented to the Court show that the Applicant filed its originating application at the Court Registry on July 1, 2022. The Defendant was served on July 4, 2022.

36. Pursuant to Article 35 of the Rules of the Court, the Defendant has 30 days from receipt of the application to submit its defense.

37. The Court has no record of any defense up to the date of the hearing of this Application. The situation provided for in Article 90(1) of the Rules of the Court has materialized, so the Applicant's request for the Tribunal to give judgment by default is pertinent.

38. However, when an application is made for judgment by default, it is for the Court, under Article 90(2), to ensure that all the requests made to it fall within its jurisdiction and that the application is admissible.

39. This means that the criteria of jurisdiction and admissibility must be checked before the judgment by default is delivered.

40. The Court notes, however, that the fact that a Applicant seeks judgment by default does not automatically mean that the action will be upheld, with the Applicant winning, since the Court must of its own motion examine questions of jurisdiction, admissibility and evidence before determining the merits of the legal proceedings. (see *MOHAMMED EL TAYYIB BAH v. THE REPUBLIC OF SIERRA LEONE (2015) (SUPRA) PAGE 6.*

VIII. JURISDICTION

41. In view of the above, the Court will first address the issue of jurisdiction.

42. Jurisdiction is an essential element in any judicial process. If a court does not have jurisdiction, any decision made, no matter how well-founded, will be null and void. See the case *TIDJANE KONTE & OTHER v. THE REPUBLIC OF GANA, RULING No. ECW/CCJ/JUD/11/14*, pg. 8.

43. Jurisdiction is crucial to any legal action. As a rule, the jurisdiction of the court is derived from the application submitted by the Applicant. In assessing whether this Court has jurisdiction to hear a case, it must rely on the facts provided by the Applicant, the relevant Court protocols and its own case law. See the case *FESTUS A.O. OGWUCHE v. THE FEDERAL REPUBLIC OF NIGERIA, JUDGMENT No. ECW/CCJ/JUD/02/18*, pg. 10.

44. Article 9(4) of the ECOWAS Court Protocol A/P.l/7/91, as amended by the Supplementary Protocol A/SP.1/01/05, grants this Court jurisdiction to adjudicate over human rights violations in any Member State.

45. When the facts involve allegations of human rights violations in a Member State, and the application is lodged by an individual, as provided for in Article 9(4) and Article 10(d) of the ECOWAS Court Protocol A/P.l/7/91

(as amended by Supplementary Protocol A/SP.1/01/05), and Article 5 of the African Charter, without there being a dispute pending before another international court, this Court is invested with jurisdiction. See the case of *MAIMUNA ABDULMUMINI v. THE FEDERAL REPUBLIC OF NIGERIA & 2 OTHERS, JUDGMENT No. ECW/CCJ/JUD/14/14*, pg. 10.

46. The mere allegation of a human rights violation in a Member State is sufficient to invest the Court with jurisdiction to hear the case, without prejudice to the merits of the case, which will be decided after the presentation of evidence by both parties, in accordance with the right to a fair trial. See the case *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS & ACCOUNTABILITY PROJECT (SERAP) & 10 OTHER v. THE FEDERAL REPUBLIC OF NIGERIA & 4 OTHERS, JUDGMENT No. ECW/CCJ/JUD/16/14*, pg. 25.
47. In the instant case, the Applicant alleges violations of the right to Dignity; Prohibition of Slavery and Torture and Other Forms of Ill-Treatment, the right to a Fair Trial, in accordance with the provisions of the African Charter on Human and Peoples' Rights, the CAT, the ICCPR and other international treaties to which the Togolese Republic is a signatory.
48. The Court, therefore, declares itself competent to hear the instant case.

IX. ADMISSIBILITY

49. It is a rule of common law that the competence to examine and decide an application is distinct from its admissibility. Admissibility refers to the assessment of whether the application will be accepted for consideration on the merits and, eventually, a final decision on the matters in dispute. It is worth noting that international human rights courts have developed the idea that admissibility rules should be applied with a certain "*degree of*

flexibility and without excessive formalism". Human rights treaties must be interpreted and applied in such a way as to ensure that their safeguards are practical and effective (*YASA c. TURQUIA - 1998 - VI; 28 EHRR 408*).

50. In addition, access to the Court for examination of any application is granted if the requirements of Article 10 of the Supplementary Protocol are met. In the instant case, which involves allegations of human rights violations made by an individual, Article 10(d) states that:

> *"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."*

51. In case *Hadijatou Mani Koraou v. Republic of Niger (Ruling No. ECW/CCJ/JUD/06/08)*, the ECOWAS Court stated that the admissibility of an application must be examined on the basis of the sufficiency of the facts and of the alleged violations.

52. Similarly, in the case of *Peter David v. Ambassador Ralph Uwechue (DECISION No. ECW/CCJ/JUD/03/13),* the Court reaffirmed that the primary purpose of admissibility rules is to ensure that human rights are safeguarded in an effective and practical manner, applying procedural rules flexibly when necessary.

53. The Applicant identified herself as a victim of human rights violations. The Court finds that the application is neither manifestly unfounded under the above-mentioned article nor inadmissible for any other reason. As indicated in the Court's case law, the mere allegation of a human rights violation by an individual is, *prima facie*, sufficient to keep the case alive and proceed on to the analysis of the merits.

54. Consequently, the application is declared admissible.

In compliance with the appropriate formalities.

55. Having the Court has established its jurisdiction over the case and has ruled it admissible, Article 90(2) of the Rules of the Court also requires that the appropriate formalities set out in Articles 33, 34 and 35 of the Rules of the Court be complied with.

56. Articles 33 and 34 are provisions relating to the constituent elements of an application that may be accepted by the Court, as well as the details of the notification protocols, including the methods of notification. On the other hand, the provisions of Article 35 are instructions for the Defendant regarding the time limit for responding to an application.

57. Having carefully examined the documents submitted by the Applicant, the Court is convinced that the application for judgment by default complies with the aforementioned formalities. Furthermore, the request for judgment by default is dated January 30, 2024 (doc. 2) and on January 31, 2024 the Respondent State was notified of this application and did not respond.

Whether the application is well-founded

58. Article 90(1) of the Rules of the Court orders that judgment by default be given on behalf of the Applicant when the Defendant fails to appear or file a defense.

59. The Court recalls that the granting of an application for judgment by default is not an obvious question, since the facts must be sufficiently proven. In other words, the Court must examine the totality of the evidence submitted by the Applicant in order to determine whether a cause of action exists and whether the claim has been satisfactorily proved (see *VISION KAM JAY INVESTMENT LIMITED v. PESIDENT OF THE COMMISSION & ANOR, DECISION No. ECW/CCJ/JUD/01/18. (2016) CCJELR* PAGE 605).

X. MERITS

60. The Court will now proceed to examine the alleged violation to determine whether the allegations contained therein are well-founded.

a) The alleged violation of the right not to be subjected to inhuman and degrading treatment

61. In support of the violation of this right, the Applicant briefly stated that, while in police custody, she remained handcuffed at all times, both day and night. During her menstrual period, she was not provided with any sanitary protection and was also not allowed access to her clothes while in detention.
62. Ms. AFANVI was also forced to sleep on the floor of a cell she shared with men, without any measures being taken to protect her dignity or physical safety.

The Court's Analysis

63. Article 5 of the African Charter states that "*All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman of degrading punishment and treatment shall be prohibited.*" This fundamental principle is also guaranteed by other international instruments, such as Article 5 of the Universal Declaration of Human Rights (UDHR), Article 7 of the International Covenant on Civil and Political Rights (ICCPR), and Article 3 of the European Convention on Human Rights (ECHR). These instruments underline the obligation of States to protect people, especially those in custody or deprived of their liberty, from treatment that undermines their dignity.

64. Although these instruments clearly prohibit inhuman and degrading treatment, the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment does not provide an exact definition for the concept of "*inhuman or degrading treatment*". However, Article 16 (1) of this Convention imposes an obligation on States to prevent acts which, even if they do not amount to torture, constitute cruel, inhuman or degrading treatment or punishment.

65. In *Communication 318/06, Open Society Justice Initiative v. Côte d'Ivoire*, the African Commission highlighted that:

> *"Dignity is, therefore, the soul of the African human rights system and which it shares with both the other systems and all civilized human societies. Dignity is consubstantial, intrinsic and inherent to the human person. In other words, when the individual loses his dignity, it is his human nature itself which is called into question, to the extent that it is likely to interrogate the validity of continuing to belong to human society. When dignity is lost, everything is lost. In short, when dignity is violated, it is not worth the while to guarantee most of the other rights."*

66. According to *Communication 241/01, Purohit and Moore v. Gambia,* Human dignity is "*an inherent basic right to which all human beings, regardless of their mental abilities or disabilities, are entitled without discrimination*". It is also a right as well as a duty. The Protocol on the Rights of Women in Africa, by associating this concept with gender equality, interprets the right to dignity as including the right of every woman to "*respect as a person and to the free development of her personality*", requiring States to take "*appropriate measures to prohibit any exploitation or degradation of women*", and in accordance with Article 3 of the same protocol to take "*appropriate measures to ensure the*

protection of every woman's right to respect for her dignity and protection from all forms of violence".

67. Case law has played a crucial role in defining what constitutes inhuman or degrading treatment, especially in contexts of deprivation of liberty. Let's take a look at some of the decisions that helped build this concept:

68. The European Court of Human Rights (ECHR) has a long history of rulings that clarify this concept. For example, in the case of *MSS v. Belgium and Greece* (Application no. 30696/09, Judgment of January 21, 2011), the ECtHR concluded that treatment can be considered "inhuman" if it is premeditated and causes severe physical or mental suffering. On the other hand, treatment is "*degrading*" when it humiliates or demeans the individual, diminishing their human dignity. However, the Court stressed that the treatment must reach a "*minimum level of severity*", which is assessed by considering the duration of the treatment and its physical or mental effects. In this case, the Court emphasized that the assessment of this severity is relative and depends on the concrete circumstances of each case;

69. The African Court on Human and Peoples' Rights has also addressed this issue on several occasions. In the case of Alex Thomas v. United Republic of Tanzania (Judgment No. 005/2013), the Court found that the Applicant's detention in subhuman conditions, including the absence of adequate medical care, violated Article 5 of the African Charter. However, the Court has also stressed the importance of providing concrete evidence to support allegations of inhuman or degrading treatment;

70. In the case of *Kenneth Good v. Republic of Botswana (Judgment No. 013/2011*), the Court found that the allegations of arbitrary expulsion and subhuman detention conditions were not sufficiently substantiated to prove a violation of Article 5 of the African Charter. The Court concluded that the Applicant failed to demonstrate that the treatment inflicted on him

reached the level of severity required to be considered inhuman or degrading.

71. This Court has taken a similar approach to the ECtHR with regard to inhuman and degrading treatment. In this case *Gabriel Inyang Linus Iyebe v. Federal Republic of Nigeria (Judgment No. ECW/CCJ/JUD/20/18)*, the Court relied on the principles established by the ECtHR to define the limits of inhuman or degrading treatment. Like the ECtHR, this Court has held that treatment is only inhuman or degrading if it reaches a minimum level of severity and causes significant physical or mental suffering.

72. In the case *Femi Falana & Ors v. Republic of Benin & Ors (Judgment No. ECW/CCJ/JUD/02/12)*, the ECOWAS Court did not find sufficient evidence to support allegations of ill-treatment. The Court rejected the allegations of degrading treatment for lack of sufficient evidence to show that the Applicants' detention conditions reached the necessary level of severity. Similarly, in the case of *Mr. Wiayao Gnandakpa & Ors. v. Republic of Togo (Judgment No. ECW/CCJ/JUD/18/15)*, the Court concluded that the allegations of inhuman and degrading treatment were too vague and general, and not sufficient to establish a violation of Article 5 of the African Charter.

73. Article 7 of the ICCPR is supplemented by the positive requirements of Article 10, paragraph 1, of the ICCPR, by stipulating that: *"Everyone deprived of their liberty shall be treated humanely and with the respect due to the inherent dignity of the human being."* This principle is reinforced by the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which require that detention conditions respect human dignity and that detainees are guaranteed adequate medical and hygiene care.

74. At the African level, the African Commission on Human and Peoples' Rights has also adopted the Principles and Guidelines on the Right to a Fair

Trial and Legal Assistance in Africa, which set standards for the treatment of detainees and prisoners, underlining the responsibility of States to ensure that the fundamental rights of detainees are respected.

75. In Communication 368/09, *Abdel Hadi, Ali Radi & Others v. Republic of Sudan, November 5, 2013, paragraph 74 the African Commission referred to "cruel, inhuman and degrading treatment"* as follows: *"With regard to incommunicado detention, death threats, denial of access to medical care and adequate sanitary facilities, the Commission notes that holding a detained person in conditions that do not respect their dignity and pose a threat to their health constitutes cruel, inhuman and degrading treatment or punishment."*

76. In the instant case, the Applicant alleged that, during her detention, she was not provided with hygiene products during her menstrual period, and was forced to sleep on the floor of a cell shared with men.

77. The privacy and dignity of a person in detention are fundamental aspects of the prohibition of inhuman and degrading treatment. The lack of access to sanitary products during the menstrual period placed the Applicant in a situation of extreme vulnerability, depriving her of adequate conditions to manage her personal hygiene. This results not only in physical discomfort, but also in a profound psychological impact, constituting an act that violates her dignity and self-respect.

78. Furthermore, the obligation to share a cell with men, without any safeguards for her safety or privacy, made her situation even worse. The Applicant's dignity was compromised, as such a condition entails additional embarrassment, especially in a context where she was menstruating and lacked adequate clothing to preserve her privacy.

79. Another relevant point is the sleeping condition imposed on the Applicant. Sleeping directly on the floor, without any protection from the cold or the hardness of the surface, poses a health risk and can cause muscular/skeletal

problems and aggravate physical and emotional suffering. These conditions of detention compromise the physical and psychological integrity of the Applicant, constituting treatment that exceeds the limits of what is acceptable, according to international human rights standards.

80. With regard to the evidence, it is noted that the Applicant presented detailed allegations about the conditions of her detention. In a judgment by default, in which the Defendant deliberately chose not to contest the charges, it is the duty of the Court to analyze in depth the statements of the Applicant and to consider the absence of a rebuttal on the part of the Defendant State (see Judgment of the Inter-American Court in the case, *VILLAGRAM MORALES AND OTHERS v. GUATEMALA*, of 19 Nov. 1999 and see also, African Commission in the case, *GABRIEL SHUMBA v. ZIMBABWE GABRIEL SHUMBA v. GUATEMALA*, Communication No. 288/04, §152).

81. In this context, international jurisprudence reinforces the idea that when a State is accused of inhuman and degrading treatment, it must provide concrete evidence to show that detention conditions respect minimum standards of dignity and safety. The ECOWAS Court, in the case of *OUSAINOU DARBOE & 31 ORS v. THE GAMBIA, ECW/CCJ/JUD/01/20*, p. 23, also ruled as follows:

> *"Under the principle of evidence, when the Applicants make statements about torture, inhuman and degrading treatment, the Defendant State must go beyond mere denial and provide evidence to show that the Applicants were treated with respect and dignity." Not a single person was brought before the Court to testify in this regard, nor was any documentary evidence presented that would convince the Court to agree with the Defendant State as to the falsity of the Applicants' allegations. In the absence of convincing evidence,*

the Court is once again inclined to believe that the Applicants' allegations in this regard are true."

82. In the instant case, it was demonstrated that the treatment suffered by the Applicant reached the level of severity required to constitute a violation of Article 5 of the African Charter, Articles 7 and 10 (1) of the ICCPR and Article 5 of the UDHR.

b) On the violation of the right to liberty and security of the person

83. The Applicant maintained that the Defendant's agents detained her for an excessive period of time and without sufficient material evidence, that the arrest and detention by agents of the GIPN, which is not a Criminal Police Authority (according to the Criminal Procedure Code in force in Togo) for thirty-four (34) consecutive days constitutes a violation of the provisions of the aforementioned texts; that on May 5, 2021 she was released after an order partially dismissing the case, exempting her from all charges.

The Court's Analysis

84. Article 6 of the African Charter states 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."

85. UDHR in Articles 3 and 9 and the ICCPR in Article 9 (1) establish in the same vein.

86. Similarly, Article 7 of the American Convention on Human Rights and Article 5 of the European Convention on Human Rights guarantee the right to liberty and security of individuals, the latter being the only one that specifically lists, in paragraphs (a) to (f), the grounds that can legally justify the deprivation of liberty.

87. Detention or deprivation of liberty occurs as soon as an individual is forcibly held in a police station or prison or when an authority orders them to remain in a certain place.

88. All the aforementioned human rights protection instruments guarantee individuals the right to liberty and security of person, establishing that deprivation of liberty must, in all cases, take place for reasons and under conditions previously determined by law (i.e. domestic or national law of the States Parties), i.e. in compliance with the principle of legality (see Human Rights Committee, General Comment No. 35 §22).

89. In this regard, the Court wrote in the case, *BENSON OLUA OKOMBA v. REPUBLIC OF BENIN*, Judgment No. ECW/CCJ/JUD/05/15 that: "*The human rights treaties mentioned above affirm that deprivation of liberty within a State must, in all cases, be carried out in accordance with the law.*" (page 16) (see also the case, *CHIEF EBRIMAH MANNEH v. THE REPUBLIC OF GAMBIA*, Judgment no. ECW/CCJ/JUD/03/08 in LR 2004-2009, (§15).

90. The Court has also defined arbitrary detention as: "*any form of restriction of individual liberty which occurs without legitimate or reasonable grounds and which violates the conditions established by law*" (see the case, *BADINI SALFO c. REPUBLIC OF BURKINA FASO*, Judgment no. ECW/CCJ/JUD/13/12) and referred to in the case, *DAME HADJITOU MANI KORAOU c. REPUBLIC OF NIGER*, Judgment No. ECW/CCJ/JUD/06/08, that "*a detention is considered arbitrary when it is not based on any legal grounds.*" (§91).

91. The African Court on Human and Peoples' Rights (ACHPR), in its judgment in the case, *ONYACHI AND NJOKA v. TANZANIA* (Application No. 003/2015, of September 28, 2017) highlighted the three criteria established by international human rights jurisprudence to determine whether or not a deprivation of liberty is arbitrary, as being the following:

92. "*(...) the legality of the deprivation, the existence of clear and reasonable grounds and the availability of procedural guarantees against arbitrariness*", having concluded that: "*These are cumulative conditions and failure to comply with one renders the deprivation of liberty arbitrary*" (see also "Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa" adopted by the African Commission, Principle M. [1.(b)]).

93. Thus, detention or imprisonment is considered arbitrary when it does not comply with national or international law, and this is the case whenever there is a lack of legitimacy or reasonable grounds for ordering or maintaining it (see the Judgment of this Court ECW/CCJ/JUD/05/17, handed down in the case *BENSON OLUA OKOMBA v. REPUBLIC OF BENIN* (p.16) and Judgment No. ECW/CCJ/JUD/04/09, delivered in the case, *AMOUZO HENRI ET ORS v. REPUBLIC OF CÔTE D'IVOIRE*, § 88).

94. This Court also reiterated in the case *MARTIN GEGENHEIMER & 4 ORS. v. THE REPUBLIC OF NIGERIA & ANOR*, in its Judgment No. ECW/CCJ/JUD/03/21, of March 4, 2021, §104 that, "*The key word for the validity of any detention is legality and reasonableness. Thus, it follows that the powers of detention must not only be provided for by law, but also the grounds for their exercise must be reasonable; otherwise, what could initially be lawful becomes arbitrary and unlawful (...)*" (see also the case *KODJO ALAIN VICTOR CLAUDE v. REPUBLIC DOCÔTE D'IVOIRE*, Judgment No. ECW/CCJ/JUD/09/21§53).

95. Turning to the case at hand, the Applicant alleged that she had been detained by the Defendant State for 34 days and also attached the following evidence to the case file:

    i. Exhibit 2, which shows that the Applicant was arrested on May 30, 2020, according to the notification of the start of pre-trial

detention, was transferred to the Central Directorate of the Criminal Police (DCPJ);

ii. Exhibit 3 refers to a report on the arrest of the Applicant, published on the YouTube social network of the Togolese Television (TVT) channel on June 9, 2020;

iii. Exhibit 4 refers to the printed press called "Togo Presse", which in its publication No. 10804, page 11, of June 11, 2020, refers to an article with the headline "*Four (04) alleged bandits in the sights of the criminal police*".

96. However, in the instant case, in accordance with the principle of the need for specific objection, it was up to the Defendant to state in its defense whether it accepts the facts alleged and the claims made by the Applicant or whether it contradicts them, insofar as the Court can consider as admitted those facts and the claims that have not been expressly contested. On this subject see the Judgment of the Inter-American Court in the case, *VILLAGRAM MORALES AND OTHERS v. GUATEMALA*, of Nov. 19, 1999, win which the Court "*considered that, as it has done in other cases, when the State does not contest the claim in a specific manner, the facts on which it has remained silent are presumed to be true, whenever it is possible to infer consistent conclusions about them from the existing evidence* [...]".

97. In the same vein, see also, African Commission in the case, *GABRIEL SHUMBA v. ZIMBABWE*, Communication No. 288/04, §152, where he wrote "*This principle is in line with the practice of other international human rights decision-making bodies and with the Commission's duty to protect human rights. Since the Defendant State has not fully responded to all the allegations, the African Commission must regrettably reach a conclusion on the basis of the facts and opinions presented by the Applicant.*"

98. This means that the Defendant cannot simply relegate itself to silence in the face of the facts imputed to it by the Applicant. The Defendant must take a definite position on all the facts alleged, accepting or contradicting them, otherwise the Court will be allowed to presume as true the facts on which it has remained silent, whenever it is possible to draw consistent conclusions about them from the existing evidence.

99. Accordingly, it was for the Defendant to prove that the Applicant's detention was not arbitrary, by demonstrating the specific circumstances that led to it and also that it was in accordance with the law, which it failed to do, thus preventing the Court from ascertaining whether the Defendant complied with the legal limits when detaining the Applicant (see *AIRCRAFTWOMAN BEAUTY IGBOBIE UZEZI v. FEDERAL REPUBLIC OF NIGERIA*, Judgment No. ECW/CCJ/JUD/11/21, p. 128, *MATCHI DAOUDOU* and *SOCIEDADE COMERCIAL POLIVALENTE (SCP) SARL-U C. STATE OF THE REPUBLIC OF TOGOLESA*; Judgment No. ECW/CCJ/JUD/38/2022, paras. 217 and 222).

100. Accordingly, in view of the Defendant's failure to lodge defense on the application and the absence of any evidence presented by the Defendant to justify that the Applicant's detention was in accordance with national or international law, the Court finds that the Defendant violated the Applicant's right to liberty under Articles 9(1) and (2) of the Covenant, Articles 3 and 9 of the UDHR and Article 6 of the African Charter.

c) On the Alleged Violation of the Right to the Presumption of Innocence

101. To substantiate the violation of the above right, the Applicant alleged, *inter alia*, that she appeared in a report by Togolese Television (TVT) which was the subject of a news broadcast on June 8, 2020 at 08:00 pm. She was presented with her face uncovered as a Novissi fund scammer. In that newspaper, Police Commissioner Labré NIFO said in an interview: "*the*

DCPJ opened an investigation that resulted in the arrest of four (04) bandits. They are: AFANVI Akuyo, 40, resident in Adamavo and identifies herself a "retailer".

The Court's Analysis

102. The right to be presumed innocent until proven guilty is a fundamental human right and is another principle that conditions the treatment to which an accused person must be subjected, during the criminal investigation and trial, until the final appeal.

103. The essence of the right to the presumption of innocence lies in its prescription that any suspect in a criminal trial is considered innocent at all stages of a trial, from the preliminary investigation to the delivery of judgment. And until their guilt is legally established.

104. Thus, it follows from Article 7 (1) (b) of the African Charter that:

> *"1. Every individual shall have the right to have his cause heard. This comprises: (b) the right to be presumed innocent until proved guilty by a competent court or tribunal;"*

105. Similarly, this right is enshrined in other international instruments, namely Articles 14(2) of the ICCPR, 8(2) of the American Convention on Human Rights, 6(2) of the European Convention on Human Rights and 11(1) of the UDHR.

106. The Commission on Human Rights noted in General Comment No. 13 §7 that "*(...) By virtue of the presumption of innocence, the burden of proof rests with the prosecution, and the accused enjoys the benefit of the doubt. No guilt may be presumed until the charge has been proved beyond reasonable doubt. Furthermore, the presumption of innocence implies the right to be treated in accordance with this principle. It is therefore the duty of all public authorities to refrain from prejudging the outcome of a trial.*"

107. This Court stated in the case of *BATIONO IDA FLEUR PELAGIE v. BURKINA FASO*, Judgment No. ECW/CCJ/JUD/14/12, LRCCJ (2012), pg. 310 §32 that "*The Court observes that the presumption of innocence implies that every person is to be presumed innocent until a competent court has established his guilt and convicted him of the crime with which s/he is charged; it prohibits all statements, events, attitudes or conduct liable to give rise to a presumption that a person is guilty before he has been found guilty by a competent Court in the course of judicial proceedings.*"

108. This Court has reiterated that "*The Court observes that respect for the presumption of innocence is required of all authorities taking part in the proceedings (...)*" (See the case KHALIFA ABABACAR AND 5 OTHERS v. STATE OF SENEGAL, Judgment No. ECW/CCJ/JUD/17/18, p. 32)

109. The African Court also wrote in the case of *INGARBIRE HUMUHOZA VICTOIRE v. REPUBLIC OF RWANDA,* Application No. 03.14 of 24 November 2017, paragraph 84, that "*The essence of the right to the presumption of innocence lies in its prescription that any suspect in criminal proceedings is presumed innocent at all stages of the proceedings, from the preliminary investigation to the delivery of judgment and until the guilt is legally established.*" (See also OSGAR JOSIAH v. TANZANIA, Application No. 053/2016, 28 March 2019, p. 51).

110. For its part, the European Court of Human Rights declared in the case of *BARBERÁ, MESSEGUÉ AND JABARDO v. SPAIN, 6 December 1988, § 77* that "*the principle of the presumption of innocence. It requires, inter alia, that when carrying out their duties, the members of a court should not start with the preconceived idea that the accused has committed the offense charged; the burden of proof is on the prosecution, and any doubt should benefit the accused*".

111. It further highlighted that this right "*does not necessarily prohibit presumptions of law or de facto, but any rule that alters the burden of proof or that applies a presumption operating against the accused must be confined within reasonable limits that take into account the importance of*

what is at stake and keep the defense rights." (See SALABIAKU v. FRANCE, 7 October 1988, § 28).

112. In the instant case, as stated above, the Applicant submitted that on June 8, 2020, she was presented to the Media by the DCPJ as a fraudster through a report that exposed her face and identity in the Media; that this report was the subject of the 08:00 pm news of Togolese Television (TVT) on June 8, 2020 with the title "04 bandits arrested by DCPJ"; that this report was published on the YouTube social network of the Togolese Television (TVT) channel on June 9, 2020; (See Exhibit No. 3); that on June 11, 2020, the news paper called "Togo Presse", in publication No. 10804, page 11, published an article with the headline "*Four (04) alleged bandits in the clutches of the criminal police*"; (See Exhibit No. 4).

113. The above facts were corroborated by Exhibits 3 and 4, attached to the initial application, and Exhibit 3 contains a video in which the Applicant appeared in a report by Togolese Television (TVT) that was the subject of a news broadcast on June 8, 2020 at 08:00 pm. She was presented with her face uncovered as a Novissi fund scammer. In the aforementioned report, Police Commissioner Labré NIFO stated in the interview that "*the DCPJ opened an investigation that resulted in the arrest of 04 (four) bandits. They are: AFANVI Akuyo 40 years old, lives in Adamavo and identifies herself as a "retailer".*

114. It is clear from the aforementioned annexures 3 and 4, the Court finds that the right in question has been violated.

115. Let's see why:

a) According to the case law above, Police Commissioner Labré NIFO could not refer to the Defendant as a bandit in the media by describing her identifying features, namely her full name and age;

b) The television station, on its part, could not expose the Applicant's face and identity, and she was handcuffed so that she could be identified by anyone.

c) The aforementioned statements and exposure of the Applicant's face in handcuffs on the television station imply that she was considered guilty by the Defendant's agents, before she was declared as such by the competent court in the context of a judicial process, creating the public conviction that she committed the crime as mentioned by them (See Exhibit 5 final part - Applicant's psychological evaluation report).

116. In this regard, the Court concludes that the Defendant violated the Applicant's right to the presumption of innocence, as provided for in Articles 7(1)(b) of the African Charter, 14(2) of the ICCPR and 11(1) of the UDHR.

d) On the alleged violation of the right to Privacy and the Protection of Honor and Reputation

117. The Applicant alleged that her appearances in the media, where she was described as a fraudster of public funds, placed her in a situation of isolation and great insecurity.

The Court's Analysis

118. Article 17 of the ICCPR states that: "1. *No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.*"

119. In the same vein, see Article 8 of the ECHR and 12 of UDHR.

120. Generally, reputation is understood as the perception of an individual by others or the esteem in which he or she is held in society. It has been

described as "a person's position in the world" and has been associated with the notions of "honor", referring to one's role and interaction with others in society, and "dignity", directly related to the awareness of one's own value. Loss of reputation can lead to loss of "position in the world", or in other words, involuntary exclusion from the community and isolation. No one who has not been properly and fairly convicted can be treated as responsible for criminal conduct, i.e. attacks on reputation that attribute crimes to an individual or suspect who has not been convicted cannot be accepted (see The Right To Protection of Reputation Under the European Convention on Human Rights, de Dean Spielmann, pág. 2, 4 e 5).

121. With regard to the right under review, the European Court of Human Rights has written that "*The Court reiterates that, although the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private life. These obligations may entail the adoption of measures aimed at guaranteeing respect for private and family life and may include the requirement that the State create a system for the effective protection of an individual's right to privacy, with implementation in cases of unlawful interference within its scope (...). The Court reiterates the importance of protecting the moral and psychological integrity and reputation of an individual, as guaranteed by Article 8 of the Convention. The effective protection of these interests requires a framework established in the domestic legal system that allows for an assessment of proportionality in situations where an individual's corresponding rights are restricted.*" *(see the case of KYRIAKIDES v. CYPRUS, (Application no. 39058/05), paras 45 and 54).*

122. With regard to the relationship between the right to reputation and the press, which is also of interest to us in this case, it should be noted that although the press plays an essential role in a democratic society, it must not exceed certain limits, particularly with regard to the reputation and rights of third parties or the proper administration of justice. Their duty is, however, to transmit - in a manner consistent with their duties and responsibilities - information and ideas on all matters of public interest (see *BLADET TROMSØ AND STENSAAS v. NORWAY* [GC], no. 21980/93, § 59, ECHR 1999-III). Not only does it have the task of transmitting this information and ideas, but the public also has the right to receive it. Otherwise, the press would not be able to play its vital role of "public vigilance".

123. In the instant case, in support of her allegations, the Applicant has attached to the case file her psychological assessment report (Exhibit no. 5) which states, inter alia, that:

124. "*It emerges from this interview that her imprisonment in Lomé civil prison for allegedly defrauding NOVISSI funds is said to have caused her reactive psychological distress. The fruitless search for reasons for her arrest generated strong emotional pressure in her, leading her in the long run to feel a deep sense of dishonor (...) More specifically, Mrs. AFANVI Akuyo is still suffering the consequences of this false accusation in her relations with her relatives and the inhabitants of her neighborhood. The attack on her reputation led the neighborhood to distrust Mrs. AFANVI Akuyo, driving her into isolation.*"

125. As can be seen from the analysis of the above document, it is clear that the arrest of the Applicant, her exposure in the media in the terms set out above, caused damage to her honor and reputation, in terms of her relationship with her loved ones and with the people living in her neighborhood, causing her neighborhood to distrust her, causing her isolation as she claimed.

126. As stated above, attacks on reputation that attribute crimes to an individual or suspect who has not been convicted cannot be accepted, and this was the case in the present case.

127. Therefore, the Court finds that the Defendant violated Article 17 of the ICCPR.

XI. REPARATION

128. The Applicant sought the opening of an investigation to identify and hold accountable the agents responsible for the acts committed against her, as well as the restoration of her honor, as provided for in Article 12 of the Convention Against Torture (CAT) and Article 4 of the same convention.

The Court's Analysis

129. Reparation for victims of human rights violations must include measures that go beyond monetary compensation. Restitution of honor and reputation is a fundamental component of the right to reparation, particularly in cases of violations involving undue public exposure or defamation (see Reaching for Justice: The Right to Reparation in the African Human Rights System (2013) (pag. 83)).

130. The UN Basic Principles and Guidelines on the Right to a Remedy reinforce that restoring honor can include public declarations of innocence, removal of unfounded accusations and formal measures to clear the victim's name.

131. Reparation for a wrongful act is an important principle of international law, which requires a State held responsible for a human rights violation to restore the victim to the situation they would have been in if their rights had

not been violated. This is done by granting effective measures, including compensation and restitution to the victim.

132. A State must make reparation for any damage caused by an illegal act for which it is internationally responsible. Reparation consists of full restitution of the original situation, if possible, or compensation if this is not possible or satisfactory, including a public acknowledgement or apology for the violation — an act that can be crucial in helping to repair the victim's emotional wounds (*see the case* MOUKHTAR IBRAHIM v. GOVERNMENT OF JIGAWA STATE & 2 ORS, DECISION No.: ECW/CCJ/JUD/12/14, PAGE 40; see also CHIEF EBRIMAH MANNEH v. REPUBLIC OF GAMBIA (2004-209) CCJELR, p. 181 *p. 194, para 32).*

133. In the instant case, having established the violation of the Applicant's human rights, the Court upholds this claim. With regard to the restoration of honor, the Court recognizes the importance of this right, but highlights the absence of clear and specific measures proposed by the Applicant to allow the direct execution of this reparation.

134. The second claim seeks an order that the Togolese Republic make reparation for the damage suffered by the Applicant, in accordance with Article 14 of the Convention Against Torture and the Principles and Guidelines on the Right to a Remedy, adopted by the United Nations General Assembly. This order sought includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The Court's Analysis

135. Complete reparation must cover multiple dimensions, reflecting the complexity of the damage suffered. Restitution seeks to restore the victim to the situation prior to the violation, whenever possible. Financial compensation must cover physical and mental harm, economic losses and other measurable damages. Rehabilitation includes medical and psychological support, while satisfaction addresses symbolic aspects such as public apologies. Finally, guarantees of non-repetition focus on structural

changes to prevent future violations (Reaching for Justice: The Right to Reparation in the African Human Rights System (2013) (p. 56-88)).

136. Reparation for a wrongful act, according to international law, requires the State responsible to fully restore the victim. This should be done through full restitution, if possible, or through adequate compensation when restitution is not feasible. Public acknowledgement of violations or official apologies can be complementary measures that significantly contribute to repairing the emotional damage suffered by the victim (see also the case, *CHIEF EBRIMAH MANNEH v. THE REPUBLIC OF GAMBIA*, Judgment No. ECW/CCJ/JUD/03/08 in LR 2004-2009, (§15) and *Moukhtar Ibrahim v. Government of Jigawa State & 2 Ors*, Judgment No: ECW/CCJ/JUD/12/14, p. 40).

137. The Court recognizes the serious violations suffered by the Applicant and stresses that international law obliges States to provide adequate reparations to victims.

138. Since it is not possible, In the instant case, to make full reparation for the damage suffered by the Applicant, it must take the form of financial compensation, which will be examined below.

139. The third relief sought specifies the payment of compensation in the amount of one hundred million (100,000,000) FCFA, in accordance with Article 14 of the Convention Against Torture and Article 9(5) of the International Covenant on Civil and Political Rights (ICCPR).

The Court's Analysis

140. Financial compensation must be fair, adequate and proportionate to the damage suffered. The quantification of damages must take into account factors such as the gravity of the violation, the material and moral damage, and the psychological impact on the victim (see Reaching for Justice: The Right to Reparation in the African Human Rights System (2013) (p. 63-67)).

In situations where full documentation of damages is not available, the courts can apply the principle of equity to determine a fair amount of compensation.

141. Reparation for internationally wrongful acts requires the State not only to acknowledge its responsibility, but also to offer monetary compensation commensurate with the damage caused.

142. The payment of compensation must be made in such a way as to restore, as far as possible, the situation prior to the violation or, at the very least, to compensate the victim adequately for the damage suffered (see also the case, *CHIEF EBRIMAH MANNEH v. THE REPUBLIC OF GAMBIA*, Judgment No. ECW/CCJ/JUD/03/08 in LR 2004-2009, (§15) and *Moukhtar Ibrahim v. Government of Jigawa State & 2 Ors*, Judgment No.: ECW/CCJ/JUD/12/14, p. 40).

143. The Court found that the Applicant suffered substantial damage, including the psychological impact of arbitrary detention and undue public exposure. However, it considers that the sought amount of 100,000,000 FCFA has not been sufficiently justified in the case file. Based on the principles of fairness and proportionality, the Court adjusts the amount awarded to adequately reflect the damages proven, ensuring that the compensation is fair but does not constitute undue enrichment.

XII. COSTS

144. The Court recalls Article 66(1) of its Rules of Procedure, which provides that "*A decision as to costs shall be given in the final judgment or in the order, which closes the proceedings*".

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

146. Under this legal provision, the Court orders the Defendant to pay the costs of the instant case.

XIII. OPERATIVE CLAUSE

147. For these reasons, the Court held a public hearing and having heard the applicant:

On Jurisdiction

i. Declares itself competent to hear the Application.

On the Admissibility:

ii. **Declares** the application admissible.

The merits of the case:

i. **Declares as established** the violation of the right not to be subjected to inhuman and degrading treatment.

ii. **Declares as established** the violation of the right to liberty and security of the person.

iii. **Declares as established** the violation of the right to the presumption of innocence.

iv. **Declares as established** the violation of the right to privacy and the protection of honor and reputation.

Reparation:

v. The Court orders the Defendant to open an investigation to identify and hold accountable the agents responsible for the acts committed against the Applicant, on the basis of Articles 4 and 12 of the Convention Against Torture;

vi. The Court orders the Defendant to pay the sum of 30,000,000 (thirty million) CFA Francs as reparation for the damage caused by the violation of the Applicant's human rights.

vii. The Court dismisses the other claims for compensation.

ON THE COSTS:

Pursuant to Article 66(2) of the Rules of Court, the Defendant is ordered to bear the costs of these proceedings as shall be assessed by the Registry of the Court.

Signature:

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

Hon. Justice Sengu Mohamed **KOROMA** – Member

Hon. Justice Dupe **ATOKI** – Member

Assisted by:

Dr Athanase Atannon – Deputy Chief Registrar

Done in Abuja on 17th March 2025, in Portuguese and translated into English and French.