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



No. 1164 JOSEPH GOMWALK
STREET, GUDU 900110 FCT, ABUJA-
NIGERIA. PMB 567 GARKI, ABUJA
TEL: 234-9-78 22 801
Website: wwwcourtecowas.org

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

In the Matter of

VINCENT OGUERI

(APPLICANT)

V

FEDERAL REPUBLIC OF NIGERIA

(RESPONDENT)

Community Court of Justice, ECOWAS

Application No. **ECW/CCJ/APP/13/21;** *Judgment No.* **ECW/CCJ/JUD/43/25**

JUDGMENT

ABUJA

10 NOVEMBER 2025

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

Application No. **ECW/CCJ/APP/13/21;** *Judgment No.* **ECW/CCJ/JUD/43/25**

BETWEEN

VINCENT OGUERI **-APPLICANT**

AND

FEDERAL REPUBLIC OF NIGERIA **-RESPONDENT**

Community Court of Justice, ECOWAS

COMPOSITION OF THE COURT:
Hon. Justice Ricardo C.M. **GONÇALVES** - Presiding Judge
Hon. Justice Dupe **ATOKI** - Member
Hon. Justice Edward Amoako **ASANTE** - Judge Rapporteur

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

REPRESENTATION OF PARTIES:

Noah Ajare Esq - Counsel for APPLICANT

Maimuna Lami Shiru Esq -Counsel for RESPONDENT

403

I. JUDGMENT

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

II. DESCRIPTION OF THE PARTIES

2. Applicant, Mr Vincent Ogueri, is a Nigerian citizen on death row in a maximum security prison at Enugu, in the Federal Republic of Nigeria.

3. Respondent, the Federal Republic of Nigeria, is an ECOWAS member state.

III. INTRODUCTION

Community Court of Justice, ECOWAS

Subject Matter of the Proceedings

4. The Applicant alleges that he is a 72-year-old man (at the date of the application), who has been on death row in a Nigerian prison for about 30 years, where he is being held under extremely inhuman or degrading conditions that have affected his health. Applicant has therefore approached the Court for reliefs including an order for his immediate release from detention and payment of 55 million naira as compensation to him.

IV. PROCEDURE BEFORE THE COURT

5. The Applicant and two NGOs initiated this proceeding by an Application dated 26 March 2021 and filed at the Registry of the Court on 30 March 2021. The Application was served on the Respondent the same day.

6. On 8 July 2021, Respondent filed a Notice of Preliminary Objection and Respondent's Statement of Defence both dated 31 May 2021. The two documents were served on Applicants the same day, 8 July 2021.

7. On 3 May 2024, Applicants filed a response to Respondent's preliminary objection together with a Reply to the Statement of Defence. Both processes were served electronically on Respondent the same day.

8. At a virtual session of the Court on 6 May 2024, the Court noted that Applicants had just filed their responses to the Respondent's Preliminary Objection and Defence. It adjourned the case to enable Respondent file its rejoinder.

9. On 21 June 2024, Applicants filed an application for extension of time to regularize their replies to Respondent's preliminary objection and Statement of Defence. The application was electronically served on the Respondent on 24 June 2024.

Community Court of Justice, ECOWAS

10. At a hearing of the case on 28 June 2024, at which all parties were represented by Counsel, the Court heard Applicants' application for extension of time which was not opposed by Respondent. The Court granted the application and deemed Applicants' processes as regularly filed. The Court then heard the parties on the Respondent's preliminary objection and adjourned for deliberation and ruling.

11. On 7 November 2024, the Court delivered Ruling No. ECW/CCJ/RUL/05/24 dismissing the Respondent's preliminary objections and affirming its jurisdiction over the Application. The Court also determined that the Application was admissible, but struck off the NGOs Incorporated Trustees of Centre for Peace and Conflict Management in Africa and Rethink Africa Foundation for lacking standing to sue.

12. At a session of the Court on 11 March 2025 during which the Applicant's counsel was absent but the Respondent was represented, the Court heard the Respondent's arguments on the merits of the case and adjourned for deliberation and judgment.

V. APPLICANT'S CASE

a. Summary of Facts

13. According to the Applicant, he was convicted in absentia by the Imo State High Court on a charge of murder and sentenced to death by hanging in 1991.

14. He states that he was not afforded the opportunity to defend himself with a counsel of his choice at the trial. Nor was adequate time or facility accorded him for his defence leading to his hasty conviction for murder. He is currently being held at Enugu Maximum Security Prison and has been on death row for about 30 years.

Community Court of Justice, ECOWAS

15. Applicant says that he is married and had five children, but one of them has died due to his absence from his family.

16. According to the Applicant, he was scheduled for execution sometime in 2003 along with three other death row prisoners. However, he was spared due to the intervention of one Moses Adekunle.

17. Since then, the Applicant who was 72 years old (at the time of the Initiating Application) says that his health has deteriorated. He has an eye condition which is worsening into blindness. Although he has been recommended for complete pardon by the Nigerian Correctional Services, he is still being held on death row under depressing and traumatizing conditions.

b. Pleas in Law

18. By way of pleas in law, Applicant makes the following submissions:

(i) That he has been subjected to extreme mental torture and inhuman or degrading treatment.

(ii) That the continued denial of access to medical attention while on death row is inhuman and violates his right to health.

(iii) That given his age, his long stay on death row and his present medical condition, he is entitled to be released from prison forthwith.

c. Reliefs Sought

19. In view of the foregoing, Applicant requests the Court for the following reliefs:

(i) A declaration that the Applicant has suffered extreme mental torture, inhuman and degrading condition having been kept on death row for more than 30 years and without access to adequate medical treatment.

Community Court of Justice, ECOWAS

(ii) A declaration that the Applicant by virtue of his age and long stay on death row and presently suffering from chronic medical condition is entitled to be released forthwith from detention.

(iii) An order for immediate release of the Applicant from detention forthwith.

(iv) A declaration that the consistent and continued denial of the right to adequate medical attention and rights to the Applicant in prison under degrading and harsh conditions is in violation of The Federal Republic of Nigeria constitution and Article 1, 2, 3, 4, 5, 7 and 26 of the African Charter on Human and People's Rights.

(v) An order directing the [Respondent] to pay a monetary compensation of 55,000,000 (Fifty-Five Million naira) to the Applicant for damages suffered as a result of long years he has been kept in prison under cruel, degrading, and inhuman condition.

(vi) An order for reparations, including physical, psychological, social and economic rehabilitation in respect of the violation of the Applicant's human rights and the cost of this suit which is accessed at 15,000,000 naira (Fifteen million naira).

(vii) An order directing the [Respondent] to faithfully and fully implement its obligations under its own constitution and the African Charter on Human and Peoples' Right as well as resolutions on Moratorium on executions adopted recently by both the African Commission on Human and People's Rights and the Third Committee of the UN General Assembly.

Community Court of Justice, ECOWAS

VI. RESPONDENT'S CASE

a. Statement of Facts

20. Respondent denies that it has violated the Applicant, Mr Vincent Ogueri's fundamental human rights.

21. Respondent states that although Applicant alleges that he was tried in absentia for murder and sentenced to death, he has failed to attach any evidence of an appeal against the conviction. Nor did the Applicant ever complain or petition any authority about being tried in absentia during or after the trial.

22. Also, despite the fact that the time limited for appeal of the conviction has expired, there are provisions under Nigerian law for extension of time to accommodate a late appeal. Consequently, the Applicant has not been denied the right to appeal his 1991 conviction. Instead, he has voluntarily chosen not to exercise it.

23. Respondent further states that the Applicant was not denied a right to counsel, as he was represented in court by lawyer of his own choice during the trial.

24. The Respondent also denies that the Applicant has been recommended for pardon by the Nigerian Correctional Services and states that because the Applicant is a convicted murderer, releasing him from prison will be a threat to society at large.

Community Court of Justice ECOWAS

25. Respondent denies that the Applicant is in a poor health condition. It states that the prison where the Applicant is being held has a medical facility where inmates with health conditions are treated. In cases where a particular medical condition cannot be treated at the facility, the Medical Officer at the prison's medical issues a referral to the prison authorities for the inmate to be sent to a medical centre that has the capacity to treat the inmate.

26. Respondent, therefore, says that the failure of the Applicant to attach any medical report from the prison medical facility to support his allegations show that whatever health condition he has is not beyond the capacity of the medical centre at the Enugu Maximum Security Prison.

27. Respondent further states that the Applicant is provided with palatable food and water in prison and that any claim to the contrary is false. Regarding the death warrant, the Respondent states that the decision to sign the warrant for the execution of a death row inmate is within the exclusive purview of State

Governors, as such, it is not a matter within the jurisdiction of the federal government of Nigeria.

28. Finally, the Respondent states that the claims made in the Application are cooked up stories that are not supported by evidence. Accordingly, the Court should dismiss the case, given that, in any event, the ECOWAS Court has no jurisdiction to compel a Member States of ECOWAS including the Respondent to grant pardons to convicted persons.

b. Pleas in Law

29. The Respondent makes the following pleas in law on the merits of the case:

i. That the Respondent has not violated any of the fundamental human rights of the Applicant under the African Charter.

ii. That the Applicant is not entitled to the reliefs sought in the Application.

Community Court of Justice ECOWAS

c. Reliefs Sought

30. Respondent therefore requests the Court to dismiss the suit for non-disclosure of a reasonable cause of action against the Respondent.

VII. PROCEEDINGS BEFORE THE COURT

31. The Respondent raised preliminary objections to the jurisdiction of the Court and admissibility of the application which were heard on 28 June 2024. In Ruling No. ECW/CCJ/RUL/05/24, delivered by the Court on 7 November 2024, the Court dismissed the Respondent's preliminary objections to jurisdiction and admissibility of the Application. It however determined that NGOs Incorporated Trustees of Centre for Peace and Conflict Management in Africa and Rethink

Africa Foundation, who filed the suit alongside Mr Vincent Oguerri, had no standing to sue and therefore struck them off the Application.

VIII. JURISDICTION OF THE COURT

32. The Court affirms its jurisdiction over the Application consistent with Ruling No. ECW/CCJ/RUL/05/24 delivered on 7 November 2024.

IX. ADMISSIBILITY OF THE CASE

33. In line with Ruling No. ECW/CCJ/RUL/05/24 delivered on 7 November 2024, the Court affirms that the Application is admissible.

Community Court of Justice, ECOWAS

X. MERITS

34. Having regard to the pleadings in the Application including the reliefs sought, the Applicant makes the following substantive claims of human rights violations which the Court must address:

(a) That the Applicant was tried, convicted and sentenced in absentia and without guarantees of fair trial under the African Charter.

(b) That the Applicant has been subjected to torture and cruel, inhuman or degrading treatment during his long imprisonment on death row.

(c) That the Applicant has been consistently denied adequate medical attention in violation of his rights under the African Charter.

35. The Court will now consider each of these alleged human rights violations in turn.

(a) Alleged trial, conviction and sentence of the Applicant in absentia and without guarantees of fair trial under the African Charter

(i) Submissions of the Applicant

36. On this issue, the Applicant submits that he was tried by the Imo State High Court in absentia and without any legal representation on the charge of murder in 1991. He was then sentenced to death by hanging in what was a hasty trial without the opportunity and facilities for him to defend himself. Further, he was denied the time and facility to appeal even when subsequent investigations disclosed exculpatory evidence.

(ii) Submissions of the Respondent

37. The Respondent denies that the Applicant was tried in absentia on the charge of murder without legal representation or other guarantees of fair trial. Further, that at no point was the Applicant denied the right to appeal his conviction and sentence. Respondent, therefore, submits that the Applicant's claims on this issue are unsupported by any evidence and are without merit.

Community Court of Justice, ECOWAS

(iii) Analysis of the Court

38. The Court notes that the alleged trial of the Applicant in absentia occurred in 1991, several years before this Court obtained its human rights jurisdiction in 2005. However, as of the date of the alleged trial, the African Charter on Human and Peoples' Rights which the Respondent ratified in 1983 and which the Applicant relies on in this case, was binding on the Respondent, having entered into force on 21 October 1986. The Applicant remains in prison under the death sentence pronounced on him during the alleged trial in absentia. It was because of this continuing imprisonment on death row resulting, allegedly, from an

unlawful trial that the Court ruled that it had jurisdiction. See *Centre for Peace and Conflict Management & Others v Federal Republic of Nigeria* [ECW/CCJ/RUL/05/24], para 32.

39. Having examined the evidence on the merits, the Court concludes that the Applicant has not presented any credible evidence to substantiate the claims that he was tried in absentia, denied the right to counsel, the right to appeal, or other guarantees of a fair trial. The Court notes that the only evidence submitted in support of these claims is a witness statement made by one Jude Arthur Angel, a staff member of Rethink Africa Foundation, one of the two NGOs struck off the case for lack of standing, rather than by the Applicant himself. This statement, based on second-hand information about the Applicant's trial many years after the fact, merely repeats the allegations set out in the Application.

Community Court of Justice, ECOWAS

40. No judgment of the domestic court or record of proceedings has been submitted to support the claim that the Applicant was absent during the trial or lacked legal representation. Nor has the Court been presented with any evidence that an attempt was made to obtain such documents from the relevant judicial authorities of the Respondent State, or that any such request was refused.

41. For these reasons, and in line with the general principle that a party who makes a claim must prove it, the Court holds that the Applicant has not proved that he was tried in absentia or denied legal representation and other fair trial rights when he was tried, convicted, and sentenced to death for murder by the Imo State High Court in 1991. That claim is accordingly dismissed.

(b) Alleged subjection of the Applicant to torture and cruel, inhuman or degrading treatment during his long imprisonment on death row

(i) Submissions of the Applicant

42. The Applicant states that he has spent several years in prison on death row under tense and psychological trauma. Firstly, he contends, relying on various international jurisprudence, that the mandatory imposition of the death penalty on him in accordance with the extant laws of the Respondent violates his right to life and freedom from torture, inhuman or degrading punishment. He further argues that his prolonged detention on death row constitutes torture and cruel, inhuman or degrading treatment or punishment in violation of his rights under the African Charter and the ICCPR.

Community Court of Justice, ECOWAS

(ii) Submissions of the Respondent

43. The Respondent submits that the Applicant has never been tortured or subjected to any form of cruel, inhuman, or degrading treatment or punishment. It therefore denies all allegations of torture or ill-treatment and demands strict proof from the Applicant.

(iii) Analysis of the Court

44. Article 5 of the African Charter and Article 7 of the ICCPR, respectively prohibit torture and cruel, inhuman or degrading treatment or punishment. The Applicant contends that the sentence of death by hanging imposed on him and for which he has been held on death row for over 30 years under psychological and mental anguish, violates the prohibition of torture and cruel, inhuman or degrading treatment or punishment.

45. The Court notes that while there is no definitive prohibition of the death penalty under international law, it is generally accepted that the manner or methods of its implementation may violate international human rights norms including the right to life and the prohibition of torture or cruel, inhuman or degrading treatment or punishment.

46. Accordingly, it has, for instance, been held that a mandatory imposition of the death penalty violates the right to life. In *Dexter Johnson v Ghana* (Comm No. 2177/2012), the Human Rights Committee held that the mandatory imposition of the death penalty for various offences based on "the category of crime for which the offender is found guilty, with no margin for the judge to evaluate the circumstances of the particular offence" violates the right to life under Article 6(1) of the ICCPR. The Committee noted at paragraph 7.3 of its decision as follows:

> In this context, the Committee refers to its jurisprudence to the effect that the automatic and mandatory imposition of the death penalty constitutes an arbitrary deprivation of life, in violation of article 6, paragraph 1, of the Covenant, in circumstances where the death penalty is imposed without regard to the defendant's personal circumstances or the circumstances of the particular offence. The existence of a *de facto* moratorium on the death penalty is not sufficient to make a mandatory death sentence consistent with the Covenant.

ECOWAS Court of Justice

47. Similarly, the African Court has held that a mandatory imposition of the death penalty or its execution by a method that is degrading or involve extreme suffering constitutes violations of the right to life and of the prohibition of torture or cruel, inhuman or degrading treatment or punishment. Accordingly, in *Rajabu and Others* v *Tanzania* (merits and reparations) (2019) 3 AfCLR 539, the African Court held that a mandatory sentence of death by hanging violates Article 4 of the African Charter on the right to life and Article 5 of the Charter which prohibits torture and cruel, inhuman or degrading treatment or punishment. The Court stated at paragraphs 118 and 119 of the judgment:

> [118] The Court notes that, in the present case, the Applicants challenge the implementation by hanging of the death penalty as imposed in their case. The Court observes that many methods used to implement the death penalty have the potential of amounting to torture, as well as cruel, inhuman and degrading treatment given the suffering inherent thereto. In line with the very rationale for prohibiting methods of execution that amount to torture or cruel, inhuman and degrading treatment, the prescription should therefore be that, in cases where the death penalty is permissible, methods of execution must exclude suffering or involve the least suffering possible.
>
> [119] The Court observes that hanging a person is one of such methods and it is therefore inherently degrading. Furthermore, having found that the mandatory imposition of the death sentence violates the right to life due to its arbitrary nature, this Court finds that, as the method of implementation of that sentence, hanging inevitably encroaches upon dignity in respect of the prohibition of torture and cruel, inhuman and degrading treatment.

48. On the issue of prolonged detention on death row, the Court observes that such detention accompanied by harsh conditions or other aggravating factors may constitute a violation of the prohibition of torture or cruel, inhuman or degrading treatment or punishment. In this regard, the European Court of Human Rights has held that the factors that may bring the death penalty within the prohibition of torture and cruel, inhuman or degrading treatment or punishment under Article 3 of the European Convention include "[t]he manner in which it is imposed or executed, the personal circumstances of the condemned person and a disproportionality to the gravity of the crime committed, as well as the conditions of detention awaiting execution." (*Soering v United Kingdom*, ECtHR, App No. 14038/88, para 104).

Community Court of Justice ECOWAS

49. Other human rights bodies have followed this approach. In *Albert Wilson v. The Philippines* (HRC, Comm No. 868/1999), the Human Rights Committee held that the complainant's "mental suffering and anguish as a consequence of being sentenced to death" was "exacerbated by his treatment in, as well as the conditions of, his detention, and resulted in documented long-term psychological damage to him" (*para.* 7.4). Therefore, the Committee concluded, that in view of

those "aggravating factors constituting further compelling circumstances beyond the mere length of time spent by the [complainant] in imprisonment under a sentence of death," the Respondent State had violated his right to freedom from torture and cruel, inhuman or degrading treatment or punishment under Article 7 of the ICCPR (*ibid*).

50. It follows, that generally, international human rights jurisprudence has not accepted that the mental or psychological anguish resulting from the mere length of time spent in prison under a death sentence, known as the "death row phenomenon", constitutes torture or cruel, inhuman or degrading treatment or punishment. (See *Johnson v Jamaica* [HRC, Comm No. 588/1994]; *Francis v Jamaica*, [HRC, Comm No. 606/1994]). The Court notes, however, that this position presumes that the time spent on death row is pursuant to a lawful sentence of death, one that is substantively valid under international law and is to be carried out in a manner compliant with international human rights norms.

Community Court of Justice, ECOWAS

51. Given the above, a different approach must apply if the psychological or mental anguish resulting from prolonged detention on death row stems from a death sentence imposed in violation of the State's human rights obligations. A similar approach is also required where the sentence is to be carried out by a method contrary to international human rights norms, such as the prohibition of torture or cruel, inhuman, or degrading treatment or punishment. In such cases, it cannot be said that the condemned prisoner is merely complaining about suffering incidental to, or necessarily arising from, a lawful sentence. The prolonged mental pain or anguish suffered by a condemned prisoner awaiting execution of an unlawful sentence of death must, in and of itself, be sufficient to constitute torture or cruel, inhuman or degrading treatment or punishment.

52. Accordingly, the Court holds that where a death sentence is unlawful, such as when it is mandatorily imposed in violation of the prisoner's right to life (see *Dexter Johnson v. Ghana*), or where the method of execution (e.g., hanging) is cruel, inhuman, or degrading due to the extreme suffering it causes (see *Rajabu and Others v. Tanzania*), the psychological or mental anguish suffered by the condemned prisoner on death row, with the unlawful sentence of death hanging over his head, constitutes torture or cruel, inhuman, or degrading treatment or punishment, without the need for any aggravating factors.

53. Regarding the facts of the present case, the Court notes that, independent of the lawfulness of the trial to which the Applicant was subjected, it is not in dispute that the Applicant was handed a mandatory sentence of death by hanging upon his conviction, in accordance with the Respondent's law. Based on the relevant principles of international human rights law, as discussed above and reflected in various international jurisprudence—including *Soering v. United Kingdom* (ECtHR, App No. 14038/88); *Dexter Johnson v. Ghana* (HRC, Comm No. 2177/2012); and *Rajabu and Others v. Tanzania* (*Merits and Reparations*) (2019) 3 AfCLR 539—the Court considers that the mandatory sentence of death imposed on the Applicant, as well as its method of execution by hanging, violates the Respondent's obligations under the African Charter to respect the right to life and to refrain from torture or cruel, inhuman or degrading treatment or punishment.

Community Court of Justice, ECOWAS

54. The Applicant has spent over 30 years in prison under inevitable psychological and mental anguish arising from the sentence of death by hanging imposed on him. Given that both the mandatory death sentence and the method of its execution are contrary to the Respondent's human rights obligations, the Court concludes that the Applicant has been subjected to the severe mental pain or suffering of an unlawful sentence of death by hanging for over 30 years. In the Court's view, this constitutes torture and cruel, inhuman, or degrading treatment

or punishment, contrary to the Respondent's obligations under the African Charter. Accordingly, the Court holds that the Respondent has violated Article 5 of the African Charter.

(c) Alleged denial of adequate medical attention to the Applicant in violation of his rights under the African Charter

(i) Submissions of the Applicant

55. On this issue, the Applicant, who was 72 years old at the date of the Application, claims that his health condition is very critical due to his age and ill health, which may cost him his life. The Applicant states that he has chronic medical conditions that come with complications including potential blindness. Despite these, the Applicant says that he has not been afforded access to adequate medical treatment by the prison authorities of the Respondent.

Community Court of Justice, ECOWAS

(ii) Submissions of the Respondent

56. The Respondent submits that the prison where the Applicant is being held has a medical facility where inmates with health conditions are treated. That the Medical Officer at the prison may refer an inmate for treatment outside of the prison if their condition cannot be handled at the prison's medical facility. According to the Respondent, the Applicant has failed to prove that he has not received medical attention in the prison or that his health condition is beyond the capacity of the medical centre at the Enugu Maximum Security Prison. Respondent therefore denies that the Applicant has not been afforded adequate medical attention.

(iii) Analysis of the Court

57. The Court begins by recalling Article 16 of the African Charter which provides:

> 1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
> 2. State parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

58. The Court notes that this provision guarantees the right to health to every individual regardless of their status or condition including detention. It follows that all persons including prisoners are equally entitled to enjoy the right to the best attainable state of health. In this regard, the United Nations Minimum Standard Rules for the Treatment of Prisoners, which the African Commission in its Resolution ACHPR/Res.466(LXVII) 2020 called on State parties to the African Charter to implement, provides in relevant part as follows:

> **Rule 24(1)**: The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.
>
> **Rule 27(1):** All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

Certified true copy - COURT ECOWAS

59. The Court now turns to the facts and evidence to evaluate whether the Applicant has been denied adequate medical attention in violation of his right to health. The Court takes note of the Applicant's "Exhibit A" which seems to be a Medical Report on a letterhead of the University of Nigeria Teaching Hospital. However, the document is not legible, and it is not possible to determine the patient in respect of whom the report was issued or the content of the said report. Accordingly, the Court is not able to rely on this report in its analysis.

60. Turning to the Applicant's Exhibit D, the Court notes that this is a document titled "Prison Form 18, Certified True Extract From the Prison Records, Application For Remission of Sentence". The document which is signed by the Superintendent of Prisons states the Applicant's condition of health as follows: "He is a glaucoma patient. Frail looking with deteriorated health condition". The "recommendation by the Prison Authority", as can be read from the Form is that he should be granted a total pardon to "enable his family members take care of his deteriorated health condition" outside of custody.

61. The Court observes that the Respondent's claim that the Applicant is receiving adequate medical attention in prison stands in direct contrast to this evidence from its own Prison Authorities showing that the Applicant's health condition can be better managed outside of prison with the support of his family. This was a key reason why the Respondent's own Prison Authorities recommended the Applicant for pardon. Apart from its bare assertions, the Respondent has not produced any evidence in the form of medical records of the Applicant (while he has been in its custody and under its medical care) to controvert the Applicant's well supported claim that he is not receiving adequate medical attention in the Enugu Maximum Security Prison.

Community Court of Justice, ECOWAS

62. For these reasons, the Court holds that the Respondent has violated the Applicant's right to health by its failure to provide adequate medical care to the Applicant while in detention at the Enugu Maximum Security Prison.

XI. REPARATIONS

63. Having determined that the Respondent has violated the Applicant's right to freedom from torture and cruel, inhuman or degrading treatment or punishment, and his right to health, the Court now considers reparations.

64. Reparations may take the form of restitution, compensation, satisfaction, or a combination of these. In this case, in addition to the declarations sought, the Applicant has requested monetary compensation totalling 55 million naira for the violation of his rights. He also requested, by way of restitution, an order for his release.

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

66. In this case, given the prolonged period of detention on death row for over 30 years in violation of the Applicant's rights and his deteriorated health, partly resulting from inadequate medical attention in prison, the Court considers it fair and just to make the following award of compensation in favour of the Applicant: (i) the sum of 10 million naira for the violation of the Applicant's right to freedom from torture and cruel, inhuman or degrading treatment or punishment, and (ii) the sum of 10 million naira for the violation of the Applicant's right to health.

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

XII. COSTS

68. Pursuant to Article 66(4) of the Rules of the Court, the Court decides that each party shall bear their own costs.

Community Court of Justice, ECOWAS

XIII. OPERATIVE CLAUSE

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

On jurisdiction

i. *Affirms* that it has jurisdiction over the Application consistent with its Ruling No. ECW/CCJ/RUL/05/24 delivered on 7 November 2024.

On admissibility

ii. *Affirms* that the Application is admissible consistent with its Ruling No. ECW/CCJ/RUL/05/24 delivered on 7 November 2024.

On the merits

iii. *Dismisses* the Applicant's claim that he was tried in absentia or denied legal representation and other fair trial rights when he was tried, convicted, and sentenced to death for murder by the Imo State High Court in 1991.

iv. *Declares* that the Applicant's prolonged detention on death row on a mandatory sentence of death by hanging constitutes torture and cruel, inhuman, or degrading treatment or punishment, contrary to the Respondent's obligations under Article 5 of the African Charter.

v. *Declares* that the Applicant's detention on death row without access to adequate medical care violates his right to health under Article 16 of the African Charter.

On reparations

vi. *Orders* the Respondent to take all necessary measures under its laws to immediately reverse the death sentence imposed on the Applicant, or to commute the sentence and release the Applicant on compassionate grounds.

Community Court of Justice ECOWAS

vii. *Orders* the Respondent to immediately take all necessary measures to ensure that the Applicant receives adequate medical attention for his health conditions.

viii. *Orders* the Respondent to pay to the Applicant 10 million naira as compensation for the violation of the Applicant's right to freedom from torture and cruel, inhuman or degrading treatment or punishment.

ix. *Orders* the Respondent to pay to the Applicant the sum of 10 million naira as compensation for the violation of the Applicant's right to health.

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

On Costs

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

Community Court of Justice, ECOWAS

Done at Abuja this 10th day of November 2025 in English and translated into French and Portuguese.

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

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

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

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