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

In the Matter of

TRUE WHIG PARTY

V

REPUBLIC OF LIBERIA

Application No: ECW/CCJ/APP/64/21/REV Judgment No: ECW/CCJ/JUD/47/25

JUDGMENT

ABUJA

19 November 2025

TRUE WHIG PARTY **-APPLICANT**

AND

REPUBLIC OF LIBERIA **-RESPONDENT**

COMPOSITION OF THE PANEL

Hon. Justice Ricardo Claúdio Monteiro GONÇALVES - Member

Hon. Justice Sengu Mohamed KOROMA - Member

Hon. Justice Dupe ATOKI - Member/Rapporteur Judge

ASSISTED BY

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

REPRESENTATION OF THE PARTIES

James Lavela SUPUWOOD. - Counsel for the Applicant

Cllr. Joel Elkanah Theoway - Counsel for the Respondent

I. JUDGMENT

1. This is the judgment of the Community Court of Justice, ECOWAS (hereinafter referred to as 'the Court') delivered in an open court.

II. DESCRIPTION OF THE PARTIES

2. The Applicant is True Whig Party, a political party founded in 1869 in Liberia and duly registered under the laws of the Republic of Liberia, against whom judgment No. ECW/CCJ/JUD/44/23 was delivered on the 24th of November 2023.

3. The Respondent is the Republic of Liberia, a Member State of the Economic Community of West African States (ECOWAS), in whose favour the Court delivered a judgment with Judgment No. ECW/CCJ/JUD/44/23 on the 24th of November 2023.

III. INTRODUCTION

4. This suit is a post-judgment application made pursuant to Article 25 of the Protocol of the Court, as amended, and Articles 92 and 93 of the Rules of the Court for a revision of Judgment No. ECW/CCJ/JUD/44/23, which was delivered on the 24th of November 2023.

IV. PROCEDURE BEFORE THE COURT

5. Applicant's application for revision was filed at the registry of the Court on the 15th of April 2024 and was electronically served on the Respondent on the 17th of April 2024.

6. In addition to the application for revision, the Applicant, on the same date, 17th April 2024, applied for an extension of time to apply for the review of the judgment, which was served together with the substantive application for review.

7. The Respondent's statement of defence was filed on the 6th of May 2025, and same was served on the Applicant electronically the same day.
8. During the virtual hearing of the matter on 8th of May 2025, both Parties were represented by Counsel in Court. The Court, having observed that all processes were duly filed by the Parties, proceeded to hear both Parties on the merits, they both made oral submissions. Thereafter, the case was adjourned for judgment.

V. THE APPLICANT'S CASE

a. Summary of Facts

9. The Applicant seeks a review of Judgment Number ECW/CCJ/JUD/44/23, delivered on the 24th of November 2023 by this Court, in the case between the Applicant and the Respondent.

10. The facts leading to the said judgment is premised on the allegation of the Applicant that on May 23rd, 2017, it filed a petition before the Sixth Judicial Circuit Court in Liberia seeking a judicial declaration affirming the Applicant's ownership rights to the E.J. Roye Building (the Applicant's Headquarters), which the Respondent had attempted to seize as "Property of the Liberian Government."

11. Following the hearing of the matter, the trial court ruled in favour of the Respondent. Dissatisfied with the trial court's decision, the Applicant appealed to the Supreme Court of Liberia.

12. The Applicant contends that during the appeal, the Supreme Court unfairly admitted into evidence a purported Memorandum of Understanding (MOU) between the Applicant and the Respondent. This MOU had been a point of contention between the parties from the onset.

13. The Applicant further argues that the Supreme Court relied on the disputed MOU to rule in favour of the Respondent, thereby transferring ownership of the E.J. Roye Building to the Respondent. Critically, the Applicant maintains that it was not afforded an opportunity to contest, scrutinize, or challenge the validity of the MOU, which was central to the dispute.

14. According to the Applicant, no trial was conducted at the national level to allow the parties to scrutinize and determine the credibility and probity of the MOU. The admission of the MOU in such circumstances, as the evidence upon which the national court relied to determine that an agreement existed between the Applicant and the Respondent, violates fundamental principles of a fair trial.

15. Consequently, on October 11th, 2021, the Applicant initiated proceedings against the Respondent at this Court- Suit No. ECW/CCJ/APP/64/21- alleging violated its rights to a fair hearing and property.

16. The Court, after hearing evidence from both parties, found in judgment Number ECW/CCJ/JUD/44/23 that the Respondent had not violated the Applicant's rights to a fair hearing and property as alleged. The said judgment Number ECW/CCJ/JUD/44/23 forms the basis of the present application for review.

17. The Applicant contends that denying an opportunity to examine the MOU constitutes a violation of its right to a fair trial, a critical flaw which this Honorable Court overlooked in its Judgment No. ECW/CCJ/JUD/44/23, which is the subject of contention in this application.

18. In particular, the Applicant submits that this Court's reasoning in Judgment No. ECW/CCJ/JUD/44/23 appears to suggest that mere participation in court proceedings is sufficient to satisfy the right to a fair hearing. They maintained that a fair trial goes beyond mere participation; it encompasses adherence to just rules of procedure, equitable application of the law, and the fair admission of evidence relied upon by the court to reach its decision.

19. They therefore submit that the failure to afford them an opportunity to scrutinize and challenge the MOU constitutes a fundamental breach of its right to a fair hearing, as guaranteed under applicable international human rights instruments and the Liberian Constitution.

20. In view of the foregoing, the Applicant urged this Honourable Court to review and set aside its earlier judgment (No ECW/CCJ/JUD/44/23) and to find that the denial of the opportunity to scrutinize the MOU renders the proceedings fundamentally flawed.

b. Pleas in Law

21. The Applicant relies on the following laws:

i. Article 25 of Protocol A/P1/7/91 on the Court as amended by the 2005 Supplementary Protocol on the Court.

ii. Articles 92 and 93 of the Rules of the Court

c. *Relief(s) sought*

22. The Applicant sought sole relief as follows: A declaration that the ECOWAS Community Court committed reversible error when it ruled that the Applicant's (True Whig Party) rights to a fair hearing and property were not violated by the Respondent (Republic of Liberia).

VI. RESPONDENT'S CASE

a. Summary of facts

23. The Respondent vehemently opposed the application for review filed by the Applicant, contending that same is an attack on this Honourable Court and a gross abuse of the judicial process.

24. They argue that rather than accept the final determination of the matter, the Applicant filed for review of the said judgment after nearly five months, contrary to the Protocol's prescribed window of three (3) months period for an application for revision.

25. The Respondent submits that the applicant has not alleged, much less demonstrated, that it became aware of any new facts within three months preceding the filing of the Application. They further argue that purported ground for review relates entirely to the legal arguments previously made and considered by this Honourable Court, and not to any newly discovered evidence. It therefore urges the court to reject the application.

b. **Pleas in law**

26. The Respondent relies on the following laws:

i. Article 25 of Protocol A/P.1/7/91 to the Treaty of ECOWAS (Relating to the Community Court of Justice).

ii. Part V Section 2 of Articles 92-94 of the Rules of the Community Court of Justice of the Economic Community of West African States, 2002.

c. **Relief(s) Sought.**

27. The Respondent sought the following reliefs for the Court to:

a. Declare the Application for Review inadmissible for failure to comply with Articles 25 of the Protocol, Articles 92-95 of the Rules of Procedure, and the Court's established jurisprudence.
b. Dismiss the Application in its entirety for constituting an abuse of Court's process.
c. Affirm the finality and binding nature of its judgment dated November 24, 2023; and
d. Award costs against the Applicant for necessitating this unnecessary litigation.

VII. JURISDICTION

28. The Court has recently reaffirmed the jurisdictional basis for reviewing its decisions, emphasizing that when it assumes jurisdiction in the original case, its jurisdiction to review a subsequent application arising from that case remains intact when the review application is brought under the provisions of Articles 92 and 93 of the Rules of the Court. This principle was reiterated in the case of SULEIMAN MUHAMMAD HUSSAINI v. ECOWAS COMMISSION (Suit No. ECW/CCJ/APP/22/19/REV), particularly in paragraph 26, page 7, in the judgment delivered on the 30th of May 2024.

29. Consequently, the Court finds that having assumed jurisdiction to adjudicate the original case, TRUE WHIG PARTY v. REPUBLIC OF LIBERIA (Suit No. ECW/CCJ/APP/64/21), pursuant to the provisions of Article 9(4) of the 1991 Protocol on the Court as amended, and considering that the present suit for review arises directly as an offshoot of the original case, the Court retains jurisdiction to entertain the present application.

30. The Court, therefore, holds that it has the jurisdiction to review its decision as submitted in the instant case.

VIII. ADMISSIBILITY

Principles Governing Admissibility of Application for Revision of Judgment

31. The Court provides a mechanism for reviewing its judgments, guided by its constitutive texts and jurisprudence. Article 19(2) of the Protocol (A/P1/7/91) on the Court as amended unequivocally states that its judgments are final and immediately enforceable, subject only to the power of the Court to review or revise its decisions under the conditions specified in Article 25 of the Court's Protocol.

32. In that regards, Article 25 of the 1991 Protocol and Articles 92 and 93 of the Rules of the Court are instructive.

33. Article 25(1) of the Protocol provides as follows:
"An application for revision of a decision may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was when the decision was given, unknown to the Court and also to the party claiming revision, provided always that such ignorance was not due to negligence".
Article 25(4) provides that *no application for revision may be made after 5 years from the date of the decision.*

34. Additionally, Article 92 of the Rules of the Court provides thus:
"An application for revision of a judgment shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge."

35. The combined effect of Article 25 of the 1991 Protocol and Article 92 of the Rules of the Court form the basis upon which the Court laid down the criteria for a successful application for a review of its judgment as follows:

i. *An application for a review must be made within five years of the delivery of the decision sought to be reviewed.*
ii. *The party applying for a review must file his application within three months of his discovering the new fact/facts upon which his application is based.*
iii. *An application for a review must be premised on the discovery of new facts that are of a decisive nature, which facts were unknown to the Court or the*

party claiming revision, provided that such ignorance was not due to negligence.

See the case of THE FEDERAL REPUBLIC OF NIGERIA & 3 ORS v. DJOT BAYI TALBIA & ANOR. (2010) CCJELR 17, para 7, pg. 2.

36. The Applicant, in the instant case, is seeking a review of the decision of this Court in *Judgment No. ECW/CCJ/JUD/44/23* delivered on the 23rd day of November 2023 in an application between itself and the Respondent, urging the Court to *"declare that it committed reversible error when it ruled at the trial stage, that the Applicant's rights to a fair hearing and property were not violated by the Respondent"*.

37. The Respondent, however, urges the Court to discountenance the application, as, if entertained, it will lead to an unending litigation and at the same time reverse the already firmly established jurisprudence of the Court as having no power to sit on appeal on the decision of national courts.

38. In this circumstance, the Court is obliged to proceed to determine whether the Applicant has satisfied the said conditions for the admissibility of this Application. See DJOT BAYI TALBIA & ANOR. V. FEDERAL REPUBLIC OF NIGERIA, *supra.*

i. Procedural timeline

39. Strict adherence to time limits is a cornerstone of the Court's review process. Article 25 of the Protocol, as reflected in Article 92 of the Court's Rules, requires an application for revision of a decision to be filed within five (5) years from the date of the contested decision and within three (3) months from the discovery of the previously unknown fact(s) upon which the application is based. These provisions underscore the importance of timeliness in ensuring the integrity and efficiency of the judicial process.

40. The Court notes that the application for revision of the judgment dated 23rd November 2023 was duly submitted to the Court's registry on 15th April 2024. Therefore, the court holds that the Application meets the required timeline to be filed within 5 years from the date of the contested judgment. The Applicant's application for an extension of time to file the application out of time for revision is rendered otiose.

41. The Court will now proceed to determine whether the second aspect of the procedural time limit to lodge the application for revision within three months of discovering the new fact(s) upon which the application is based has been satisfied.

ii. Discovery of a New Fact

42. The discovery of new fact(s) and the mandatory three-month period for filing a revision application are intertwined; nevertheless, the discovery of new facts takes pre-eminence over the 3 months' timeline considering the fact that even where there is compliance with the timeline, it is the discovery of new facts that will validate the timeline requirement. The Court will therefore proceed to determine the discovery of a new fact ahead of the 3 months' timeline for filing the application for review.

43. Article 25 (1) of the 1991 Protocol A/P1/7/91 provides that: "*An application for revision for a decision may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor which fact was, when the decision was given, unknown to the Court and also to the party claiming revision, provided always that such ignorance was not due to negligence.*"

44. It is imperative to note that the essence of revision of a judgment is to ensure that an injustice is not perpetrated due to the unawareness of the court and or the parties of facts that were unknown at the time of trial up to the decision and which, if known, would have a decisive effect on the judgment. Consequently, in the interest of justice, the party is allowed to approach the court and submit the said new facts for reconsideration by the Court.

45. The admissibility of this new fact is dependent on the proof that it was unknown and would not have been known even with diligence, and also its ability to be relevant enough to affect the reasoning and the final decision of the court had hitherto taken. SULEIMAN MUHAMMAD HUSSAINI V ECWOWAS COMMISSION & ANOR, ECW/CCJ/APP/22/19/REV, ECW/CCJ/JUD/14/24 PAGE 15 PARA 61 & 62

46. In interpreting the phrase "new facts or unknown facts" the Court has articulated "*that new facts of evidence refer to new discover(y) (ies) which were not known to the party bringing the case or of which that party could not with diligence*

have known at the time of filling the initial Application. The Court further considers that a fact or event that occurs after a judgment has been delivered is not a ''new fact'' within the meaning of Rule 78(1) of the Rules, regardless of its legal consequences. Consequently, a new fact must precede the delivery of the judgment. SEE KOUADIO KOBENA FORY V REPUBLIC OF COTE D'IVOIRE, ACTHPR, APPLICATION NO. 034/2017, OF 2 DECEMBER 2021, PARA 3.

47. It is pertinent to note, however, that the Court must be convinced of the need to revise its judgment; it is not a procedure accessible to the parties by right. Not only must "new" facts have come to light, but those facts must also be "decisive." The facts must be of such a nature that knowledge of their existence would have "changed the decision of the Court. Michigan Journal on International Law Vol.42:479 pgs 483-484. https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2114&context=mjil

48. The Applicant's ten-paragraph summary of facts in support of the present application for revision of the contested judgment has failed, in its entirety, to specify any new fact on which the alleged fact(s) underlying the application was discovered.

49. In the present case, the Applicant has not presented any new facts or events. Instead, their case is premised on the allegation that the Court failed to consider the MOU to give it its probative value. In essence, the Applicant's relief amounts to converting the Court to act as an appellate body and declare its earlier decision as lacking in merit, a power the Court explicitly does not possess.

50. The Court has held severally that it is not an appellate court to national courts. See MR. KHALIFA ABABACAR SALL & 5 ORS v. REPUBLIC OF SENEGAL, ECW/CCJ/JUD/17/18 *at page 27*.

51. In emphasis, it reiterates that: *"It is pertinent to state at this point and to emphasize that the grounds for review of the decisions of this Court are very different from grounds of appeal. In fact, the review mechanism provides a very limited opportunity for parties who make significant findings of facts which were unknown to them and to the Court at the time the decision of the Court was made, without any negligence on the part of the party claiming revision. It*

is not an avenue for parties to challenge the conclusions of fact or law made by the Court in arriving at its decisions. *The grounds for revision are well spelt out in the Protocol on the Court and the Rules of Court, and the Court has little discretion in that regard. A party must necessarily meet the requirements for revision in order to succeed."* See OCEAN KING NIGERIA LIMITED v. REPUBLIC OF SENEGAL, Suit No. ECW/CCJ/APP/05/08/REV, para. 13.

52. The Court aligns with the argument of the Respondent that the Applicant's approach in this application seeks to reopen arguments to persuade the Court to alter its decision. The submission that the Court erred in its assessment of evidence and reached an unexpected conclusion constitutes a question of law that belongs within the purview of an appeal, not a request for revision based on new facts.

53. The Applicant's case clearly aims to challenge the Court's conclusions, which falls outside the scope of the review mechanism. In conclusion, the Court holds that the application for review fails to satisfy the mandatory requirements of Article 25 of the Protocol of the Court and Article 92 of the Court's Rules, which unequivocally require that an application for review be based upon the discovery of new fact(s).

54. The Applicant, having failed to establish the discovery of new fact(s) upon which the current application is based, the calculation of the mandatory three-month period within which the application should have been filed becomes moot.

55. The other requirement on the discovery of a new fact(s) include i) that the facts must be of such a nature as to be a decisive factor, ii) which fact was, when the decision was given, unknown to the Court, and iii) also to the party claiming revision, provided always that such ignorance was not due to negligence.

56. Having not proved the existence of a new fact, the requirement to prove these conditions is devoid of purpose and the Court will not proceed to determine them. Consequently, the Court holds that the determination of these conditions for admissibility becomes otiose.

57. Though the Applicant met the timeline of filing the application within five (5) years of delivery of the contested judgment, the failure to satisfy the

requirement of discovery of new facts renders the compliance invaluable, as *"The requirements for admissibility of an application for review are cumulative. The absence of any one of them is sufficient to endanger the inadmissibility of the Application." SEE* SULEIMAN MUHAMMAD HUSSAINI V. ECOWAS COMMISSION *(SUPRA), PARA. 92, PG. 22.*

58. Furthermore, the Court also reinforced this principle when it held that *"An application for revision is admissible only if each of the conditions laid down is satisfied. If any of them is not met, the Application must be dismissed."* SEE the International Court of Justice (ICJ) decision in *El Salvador/Honduras v. Nicaragua (Intervening), Judgment of 18 December 2003, para. 20,* emphasized in paragraph 93 of *Suleiman's case* supra

59. In light of the foregoing, the Court hereby declares the application for the revision of Judgment No. ECW/CCJ/JUD/44/23, delivered on 24th November 2023 inadmissible.

IX. COSTS

60. Article 66(4) of the Rules of Procedure of the Court provides that, where each party succeeds on some and fails on other heads, or where the circumstances are exceptional; the Court may order that the costs be shared or that the parties bear their own costs.

X.OPERATIVE CLAUSE

61. For the reasons stated above, the Court sitting in public, after hearing both Parties:

As to Jurisdiction:

i. Declares that it has jurisdiction to determine this case;

As to admissibility:

ii. Declares that the application is inadmissible

As to costs:

iii. Orders each Party to bear its own costs.

Hon. Justice Ricardo Claúdio Monteiro GONÇALVES - Presiding----------

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

Hon. Justice Dupe ATOKI - Member/Judge Rapporteur----------

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

Done in Abuja, this 19th day of November 2025 in English and translated into French and Portuguese.