IN THE COURT OF JUSTICE OF THE ECONOMIC COMMUNITY

OF THE WEST AFRICAN STATES (ECOWAS)

In the Matter of

MUSA ALI MAISHANU

V.

FEDERAL REPUBLIC OF NIGERIA

Application No. ECW/CCJ/APP/11/25

Judgment No. ECW/CCJ/RUL/01/26

RULING

ABUJA

On the 30th of January 2026

SUIT No ECW/CCJ/APP/11/25

RULING No. ECW/CCJ/RUL/01/26

BETWEEN

MUSA ALI MAISHANU **APPLICANT**

AND

FEDERAL REPUBLIC OF NIGERIA **DEFENDANT**

COMPOSITION OF THE COURT PANEL

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

Hon. Justice Sengu Mohamed KOROMA - Member

Hon. Justice Edward Amoako ASANTE - Member

ASSISTED BY

Mr. Gaye Sowe - Registrar

REPRESENTATION OF THE PARTIES

Sunday Mbobo, Esq- Counsel for the Applicant

Maimuna Lami Shiru (Mrs.) - Counsel for the Defendant

I. RULING

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

II. IDENTIFICATION OF PARTIES

2. The Applicant, Musa Ali Maishanu, resides at 45 Karin Lamido Street, Jametta, Adamawa State.
3. The Defendant is the Federal Republic of Nigeria, a member of the Economic Community of West African States (ECOWAS) and a signatory to the African Charter on Human and Peoples' Rights, hereinafter referred to as the African Charter.

III. INTRODUCTION

4. In the instant case, the Applicant came to claim the violation of his human rights, in that he was, inter alia, arrested on October 18, 2022, held in the cell of the Gombe State Police Command, brought to court on October 21, 2022, released on bail on October 26, 2022, and it was only on July 15, 2024 that the High Court of Gombe State, on appeal, handed down its decision on the case, ordering that the restrictions imposed on the Applicant be lifted.

IV. PROCEEDINGS BEFORE THE COURT

5. The application initiating proceedings (doc.1) was registered at the Registry of this Court on 10th February 2025.
6. The Defendant was duly served on the above date.

7. On April 2, 2025, the Applicant filed an application seeking a default judgment, which was served on the Defendant on the same date.
8. A hearing of the parties was scheduled for May 14, 2025, and on the same day the Defendant requested an extension of the deadline to submit its preliminary objection and defense (doc.3) and at the same time deposited its preliminary objection and defense (docs. 4 and 5), which were served on the Applicant.
9. The parties' representatives attended the hearing, where the Court granted the Defendant's request. The Applicant withdrew his request for default judgment. The Court granted the Applicant 30 days to file a reply.
10. On June 3, 2025, the Applicant submitted his replies to the preliminary objection and the defense (docs. 6 and 7), which were served on the Defendant on the same date and the latter said nothing.
11. June 26, 2025, was scheduled for the hearing of the parties, in which the representatives of the parties appeared and presented their oral arguments regarding the preliminary objection.

V. THE APPLICANT'S CASE

a. Summary of Facts

12. The Applicant served as Regional Coordinator of the Global Pan-Africanism Network (G-PAN), an international non-governmental organization, with its North-East regional office based in Gombe. At the time of the facts, on October 18, 2022, the Applicant was at his workplace when three agents from the Department of State Services (DSS) broke into his office with the intention of arresting him.
13. The Applicant alleges that he asked the officers to identify themselves and to tell him the reason for his arrest, which they refused. Instead,

the agents coercively confiscated his cell phone and prevented him from contacting his lawyer, with the aim of informing him of the presence of the authorities in his office. Faced with the threat that if he refused to accompany them, armed agents would be called in to "deal" with him, the Applicant ended up following them to the DSS office in Gombe.

14. On the premises of the DSS, the Applicant was treated like a common criminal and was the target of insults and derogatory expressions. He was forced to undress, photographed naked and forced to sit on the floor, in a deeply humiliating, degrading and inhumane treatment that exceeds anything that could reasonably be imagined as acceptable in a society governed by the rule of law.
15. The Applicant also mentions that during the entire period he was detained in the DSS office, he was not allowed to buy food or drink, despite repeatedly informing them that he had an ulcer. As a result of this deprivation, his state of health deteriorated significantly.
16. Subsequently, a senior DSS officer ordered his statement to be taken, demanding that he admit to being a criminal, which the Applicant categorically refused. The situation was then taken by DSS agents to the President of the Human Rights and Civil Liberties Organization, Gombe State branch, as well as to the G-PAN Northeast regional office. Although the Applicant was asked to provide clarification, he was simultaneously denied an effective hearing. This context led G-PAN to report the suspected criminals to NAPTIP in a formal letter, which was the underlying cause of the humiliation inflicted on the Applicant, in clear violation of his fundamental human rights. On that occasion, he was also warned not to pursue any action related to the matter.

17. Following these events, a letter was sent to the NAPTIP Commander of Gombe State by the G-PAN North-East regional delegation. The Applicant was then informed, in an intimidating manner, that the letter contained alleged threats to the Commander. Right there in the DSS office, he was forced to draft a statement on the subject. For refusing to take criminal responsibility for a crime he didn't know about, the Applicant was dubbed a "terrorist" and forced to stand for around four hours, in a particularly cruel and degrading treatment.

18. During the interrogation, the three DSS officers questioned the Applicant about his family, his business and any links to influential people in the country. When he replied that he had no links with prominent figures in Nigeria, he was threatened with arbitrary arrest and told that nothing could prevent such an outcome.

19. After this succession of abuses, the Applicant was released on bail, with the obligation to present himself on October 19, 2022, with all the G-PAN documents. He complied, but the agents refused to receive the documents when he asked for proof of receipt. As a result, he was taken to another office, where he was again threatened with punishment if he persisted with his demand.

20. It was then that the Applicant realized that his entire ordeal had its direct origin in the letter sent by the G-PAN North-East regional office to NAPTIP in Gombe. He was eventually compelled to write a letter of apology to the NAPTIP Commander of Gombe State regarding the said correspondence on October 19, 2022. This letter made it clear to the Applicant that the NAPTIP Commander was determined to use all legal mechanisms against him, without any respect for legality, legal decency or his fundamental rights as an innocent citizen.

21. The Applicant then came to realize that Aminu Muhammed Shira, Commander of NAPTIP, was the one who maliciously activated the

legal instruments against him, leading to the formulation of a fabricated accusation that culminated in his trial.

22. When he was handed over to the Gombe State Commissioner of Police, the Applicant was again subjected to degrading treatment, insulted with expressions such as "stupid" and "bastard", in the presence of DSS and police officers. On October 21, 2022, he was brought before the Gombe Court of First Instance, charged with Criminal Intimidation and Conspiracy. On the day of the formal indictment, the Deputy Attorney General of Gombe State, Dr. Musa Sa'ad, stated in Court that the Applicant and the other co-defendants had done nothing wrong, but that they should be punished for simply writing a letter to the Commander of NAPTIP, statements made in the presence of the defendants.

23. From his arrest on October 18, 2022, through his stay in the Police Command cell, his appearance in Court on October 21, 2022, his release on bail on October 26, 2022, it was only on July 15, 2024, that the Gombe State High Court, on appeal, handed down a final decision ordering the lifting of the restrictions imposed on the Applicant.

24. The Applicant's lawyer filed a motion for summary acquittal after the close of the prosecution evidence, which included only one witness (PW1). In the initial decision, the judge acquitted only the second and third defendants and ordered the Applicant to present his defense. This decision was appealed, and the higher Court ruled in favor of the Applicant, confirming that he had been wrongly accused.

25. It should also be noted that, prior to his arrest, the Applicant had been admitted to a Master's course in Security Studies at the University of Uganda. However, due to the restrictions imposed by his arrest, detention and successive Court appearances (resulting from a process initiated maliciously by the Gombe State NAPTIP Commander, with

the involvement of the DSS, the Police and the Gombe State Ministry of Justice), the Applicant was prevented from starting his studies, thus losing a relevant and irreparable academic opportunity.

b. Pleas in Law

26. The Defendant relied on the following articles:
    i. 35 of the Constitution of the Republic of the Defendant;
    ii. 33 of the Rules of Procedure of the Community Court of Justice;
    iii. 10 of Supplementary Protocol A/SP.1/01/05 amending Protocol A/P1/7/91 on the Community Court of Justice.

v. Reliefs Sought

27. The Applicant concluded by seeking from the Court:
    i. A declaration that the torture of the Applicant by the men of the DSS is contrary to Article 33 of the Rules of Procedure of the Community Court of Justice and Article 10 of the Supplementary Protocol A/SP1/01/05 amending the Protocol (A/P1/7/91) on the Community Court of Justice.
    ii. A declaration that the fabricated accusation made by the Police against the Applicant was malicious.
    iii. An order for general damages in the amount of ₦5,000,000,000.00 (five billion Naira) for unlawful arrest and detention and torture, which constitutes a violation of the Applicant's fundamental rights.
    iv. An order for special damages in the sum of ₦100,000,000.00 (one hundred million Naira) for the Malicious prosecution against the Applicant.
    v. An order for the Defendants to make a public apology for the violation of the Applicant's fundamental rights.

vi. And any other order or orders that this Court deems appropriate to make in the circumstances of this case.

VI. THE DEFENDANT'S CASE

a. Summary of Facts

28. The Defendant denies the allegations made by the Applicant in their entirety and avers that it did not unlawfully detain him, invade his workplace or subject him to any form of torture or inhumane treatment, but on the contrary put his allegations to the strictest scrutiny and proof.

29. The Defendant maintains that it is a federal state that observes and applies the rule of law in accordance with the 1999 Constitution of the Federal Republic of Nigeria, as amended, as well as the Treaties and Protocols Establishing the Economic Community of West African States, the African Charter on Human and Peoples' Rights and other relevant regional and international instruments, making every effort to comply with its legal obligations at the domestic, regional and international levels.

30. The Defendant further states that it is the constitutional and legal duty of the Government of Nigeria to promote and protect the rights of its citizens by preventing and sanctioning any violations of human rights, whether by community institutions or by public officials in the exercise of their official duties.

31. Without conceding, the Defendant clarifies that a lawful arrest, carried out in accordance with the law, cannot be equated with a violation of fundamental rights, since the right to personal liberty is not absolute and can be legitimately restricted when there is reasonable suspicion of the commission of a crime or whenever this proves necessary to prevent its consummation, in accordance with the law.

32. The Defendant also denies that the facts presented by the Applicant disclose any violation of his fundamental rights by community institutions or public agents in the exercise of their official duties, maintaining that the allegations made lack legal and factual foundation.

33. With regard to the allegation that it was the target of a fabricated accusation, allegedly orchestrated by an individual identified as the NAPTIP Commander of Gombe State, the Defendant rejects this as unfounded and devoid of any evidence. It maintains that criminal proceedings brought in its territory strictly comply with the principle of the rule of law, involving prior investigation, establishing sufficient evidence and verifying the existence of a *prima facie* case before any trial begins.

34. The Defendant also states that the allegations regarding alleged procedural abuses and violations of rights are false, speculative and devoid of material proof, and that the Applicant has not presented any substantial elements capable of supporting them.

35. In addition, according to the Defendant, the case in question is manifestly criminal in nature, relating to allegations of intimidation and criminal conspiracy, matters that do not fall within the scope of protection of fundamental human rights as enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria, as amended, nor in the African Charter on Human and Peoples' Rights, and fall within the exclusive jurisdiction of the Defendant's national Courts.

36. The Defendant also categorically maintains that the rights claimed by the Applicant as allegedly violated are not enforceable rights under the 1999 Constitution, the African Charter or other applicable international instruments.

37. Consequently, the Defendant denies all the allegations contained in the Applicant's statement of facts and concludes that his claim is based on an alleged malicious accusation, the possible redress for which should be pursued, if it so wishes, through the appropriate procedural means before the Defendant's competent national Courts.

b. Pleas in Law

38. In support of its case, the Defendant did not cite any specific legal provision in its statement of facts.

v. Reliefs Sought

39. The Defendant prays the Court to declare that it has no jurisdiction to hear the application or, in the alternative, to declare the action inadmissible or unfounded.

VIII. ON THE JURISDICTION

The alleged lack of jurisdiction of the Court

40. The Defendant raised the lack of jurisdiction of this Court to examine the present case, arguing that the measures requested by the Applicant in this action do not fall within the scope of an action for the enforcement of fundamental rights, that the Applicant's claims are not applicable under Chapter IV of the 1999 Constitution and the African Charter.

41. The Applicant, on its part, refuted the Defendant's arguments (Doc. 6), reiterating the jurisdiction of this Court, stating that this Court has jurisdiction to hear all cases and disputes submitted to it, covering the interpretation of the Banjul Charter, the Protocol to the Charter and any other applicable Human Rights Instruments.

The Court's Analysis

42. In order to determine the jurisdiction of this Court, consideration must be given both to the legal texts governing its jurisdiction and to the nature of the issue raised by the Applicant, based on the facts as alleged by the latter.

43. Thus, it is based on the analysis of the application initiating proceedings filed by the Applicant that the Court determines whether the matter falls within its jurisdiction.

44. This Court ruled in the case, *BAKARY SARRE & 28 ORS v. REPUBLIC OF MALI*, Judgment No. ECW/CCJ/JUD/03/1, CCJRL (2011) p. 67, §25, that: *"The jurisdiction of the Court to hear a particular case depends not only on the texts that govern it, but also on the substantive content of the application initiating proceedings. The Court pays particular attention to the claims formulated by the Applicant, the legal grounds invoked and, in cases where a violation of human rights is alleged, it also examines with particular care the manner in which the claims are presented by the parties. Thus, it is for the Court to determine whether the alleged violation of human rights constitutes the main subject matter of the application and whether the legal grounds and evidence produced are essentially intended to demonstrate the existence of such a violation."*

45. Also in the case *CHUDE MBA v. REPUBLIC OF GANA*, Judgment No. ECW/CCJ/JUD/10/13, CCJRL (2013) p. 349§52, the Court held that: *"As a general rule, jurisdiction is inferred from the Applicant's claim and, in order to decide whether or not this Court has jurisdiction to hear the instant case, regard must be had to the facts as presented by the Applicant"*.

46. The jurisdiction of this Court is provided under the Article 9 of the Protocol A/P1/7/91 on the Court, as amended by the Supplementary Protocol A/SP.1/01/05.

47. Article 9 (4) of the ICCPR establishes that:

"The Court has jurisdiction to determine the cases of human rights violations that occur in any Member State."

48. And it is case law of this Court, that its jurisdiction cannot be called into question whenever the facts being claimed are related to Human Rights. (See the case, *HISSÈNE HABRÉ v. REPUBLIC OF SENEGAL,* Judgment No. *ECW/CCJ/RUL/03/2010, CCJRL (2010) p. 43, § 53-61; MAMADOU TANDJA v. REPUBLIC OF NIGER,* Judgment No. *ECW/CCJ/JUD/05/10, CCJRL (2011) p. 105 ff.; PRIVATE ALIMU AKEEM v. FEDERAL REPUBLIC OF NIGERIA,* Ruling No. *ECW/CCJ/RUL/05/11, CCJRL (2011) p. 121 ff.)*

49. This position of the Court has been permanently reaffirmed in several judgments, making it indisputable that, in a case, the mere allegation of a human rights violation is sufficient to trigger the jurisdiction of this Court, and it will assume jurisdiction without necessarily examining the veracity of the allegation. (See the case *DR. GEORGE S. BOLEY v. REPUBLIC OF LIBERIA & 4 ORS*, Judgment No. ECW/CCJ/JUD/24/19 §27).

50. Also, in relation to the aforementioned Article 9(4), this Court, in the case of *SAWADOGO PAUL & 3 ORS v. REPUBLIC OF BURKINA FASO*, Judgment No. ECW/CCJ/JUD/07/20 §2 ruled that "*It follows from the above provision that two conditions must be fulfilled before the Court can exercise its jurisdiction in respect of an application referred to it:*

a) there must be an allegation of a human rights violation; and

b) such violation must have occurred within the territorial jurisdiction of the Member State against which the application is brought."

51. In the instant case, the Applicant bases his initiating application on an alleged violation of his human rights, namely the violation of the rights to freedom of movement, personal freedom and human dignity, as stated in paragraph c) of his originating application.

52. Although the Applicant did not mention the articles of the international instruments for the protection of human rights invoked here, he alleged facts that in his opinion constitute violations of the aforementioned human rights that he listed in his originating application.

53. In other words, the Applicant alleged, inter alia, that the cause of action in this claim is based on acts of unlawful arrest, torture, detention and malicious prosecution carried out against the Applicant by the Defendant; that his right to personal liberty was violated when he was unlawfully detained and imprisoned without any legal justification.

54. It should be emphasized once again that the mere allegation of a human rights violation is sufficient to trigger the jurisdiction of this Court, and this Court will assume its jurisdiction without necessarily examining the veracity of the allegation. (See 1. *INCORPORATED TRUSTS OF CENTRE FOR PEACE AND CONFLICT MANAGEMENT IN AFRICA AND RETHINK AFRICA FOUNDATION (ON BEHALF VINCENT OGUERI) 2. VINCENT OGUERI v. FEDERAL REPUBLIC OF NIGERIA*, Ruling No. ECW/CCJ/RUL/05/24, paras. 31 and 32).

55. In this sense, considering the facts invoked and the reliefs sought by the Applicant, the basis of the present action is the alleged violation of human rights, allegedly committed in the territory of the Defendant, guaranteed by legal instruments for the protection of human rights, namely the African Charter on Human and Peoples' Rights, ratified by

ECOWAS Member States, such as the Defendant, and which therefore bind them and impose on them the duty to respect and protect the rights proclaimed therein. (See the case *AMOUZOU HENRI and 5 ORS v. REPUBLIC OF COTE D'IVOIRE*, Judgment No. ECW/CCJ/JUD/04/09, LRCCJ, 2009, p. 296, paras 58 to 61).

56. Accordingly, having the conditions laid down in Article 9(4) of Protocol A/P1/7/91 on the Court, as amended by Additional Protocol A/SP.1/01/05, been met, the Court finds that it has jurisdiction to hear and rule on the instant case.

IX. ADMISSIBILITY

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

X. OPERATIVE CLAUSE

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

On Jurisdiction

i. The Court declares that it has jurisdiction to examine the application.

On the Admissibility:

ii. Declares the application admissible.

On the next steps of the proceedings

iii. Declares that, subject to the Rules of the Court, the application will be considered on the merits.

iv. The decision on the costs of the proceedings will be taken in the judgment of the substantive case.

Signature:

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

Hon. Justice Sengu Mohamed KOROMA - Member

Hon. Hon. Justice Edward Amoako ASANTE - Member

Mr. Gaye Sowe - Registrar

59. Done in Abuja on 30th January 2026, in Portuguese and translated into English and French.