



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

In the Matter of

MARY OMERERE

V

REPUBLIC OF GHANA

Application No: ECW/CCJ/APP/25/25

Judgment No. ECW/CCJ/JUD/30/26

JUDGMENT

ABUJA

23rd June 2026

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

Judgment No. **ECW/CCJ/JUD/30/26**

BETWEEN

MARY OMERERE

APPLICANT

AND

THE REPUBLIC OF GHANA

RESPONDENT

COMPOSITION OF THE COURT

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

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

Hon. Justice Dupe **ATOKI** - Member

ASSISTED BY:

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

REPRESENTATION OF PARTIES

Emeka Ezeobi Esq - Counsel to the Applicant

Ihensekhien Samuel Junior Esq

Attorney General - Counsel for the Respondent



I. JUDGMENT

1. This is the 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. The Applicant is Mary Omerere, and states that she is a citizen of the Republic of Ghana, born in Ashaiman, Ghana, on January 1, 1989, and therefore a Community citizen.
3. The Respondent is the Republic of Ghana, a Member State of the Economic Community of West African States (ECOWAS), and a state party to the African Charter on Human and Peoples Rights as well as other international human rights instruments and treaties.

III. INTRODUCTION

4. The Application concerns the alleged violation of the Applicant's right to freedom of movement, including her right to leave and return to her country of nationality, as guaranteed under Article 12(2) of the African Charter on Human and Peoples' Rights and Article 21(1)(g) of the 1992 Constitution of the Republic of Ghana. She also claims that her right to nationality, including her right not to be arbitrarily deprived of the recognition and enjoyment of her Ghanaian nationality, was violated, contrary to the guarantees implicit in

[Handwritten signatures]

Article 12(2) of the African Charter on Human and Peoples' Rights and other applicable principles of international human rights law.

IV. PROCEDURE BEFORE THE COURT

5. The case commenced with the filing of an Initiating Application, dated 5 May 2025, on 19 May 2025. This was served on the Respondent on 20 May 2025.
6. The Applicant again filed Application for Default Judgment dated 10 October 2025, on the same 10 October 2025, and was electronically served on the Respondent, who did not respond.
7. At the external Court Session held on 15 May 2026, the case was heard in court. The Applicant appeared through Counsel, while the Respondent was absent and unrepresented despite having been duly notified of the proceedings. The Court noted the Applicant's Motion for Default Judgment and invited Counsel for the Applicant to move the application. Counsel accordingly moved the application and made oral submissions in support thereof. Upon hearing Counsel, the Court reserved the matter for judgment and adjourned the case for a date to be communicated to the parties in due course for the delivery of judgment.

V. APPLICANT'S CASE

a) Summary of Facts

8. The Applicant states that she is a citizen of the Republic of Ghana and was issued with a Ghanaian international passport by the Respondent's Immigration Service on 12 December 2018, valid until 11 December 2023. In



support of her nationality, she relies on the data page of the said passport, annexed to her application as *Annexure BB*.

9. The Applicant avers that prior to the issuance of the passport, her mother, Joy Osei, together with other relatives and close relations, were interviewed by the Ghanaian authorities through telephone calls as part of the process leading to the issuance of her Certificate of Birth. According to the Applicant, the Certificate of Birth was processed and issued through the Ghana High Commission in Lagos, Nigeria, after she complied with all administrative requirements, including the payment of courier charges for the transmission of the document from Ghana.
10. The Applicant further states that the Certificate of Birth has never been nullified, revoked, or otherwise invalidated through any judicial or administrative process. She maintains that having obtained the document through official channels and in accordance with the procedures prescribed by the Ghana High Commission, she had no reason to doubt its authenticity.
11. The Applicant avers that on 29 November 2018, she married a Nigerian citizen, Mr. Henry Obukohwo Omerere, in a marriage solemnized under the Marriage Act of the Federal Republic of Nigeria at the Eti-Osa Marriage Registry, Lagos State. Following the marriage, she was issued a duly authenticated marriage certificate. She further states that, in accordance with prevailing customs and practice, her name was subsequently changed from Mary Efai Osei Ayree to Mary Omerere.
12. According to the Applicant, in August 2023, shortly before the expiration of her Ghanaian passport, she applied to the Ghana High Commission in the

Handwritten signature in blue ink, appearing to read "Mary Omerere".

United Kingdom for the renewal of her passport or, alternatively, the issuance of a new passport. She contends that, despite submitting her application, her request was not processed and was subjected to prolonged, unexplained delays.

13. The Applicant states that during a subsequent interaction with officials of the Ghana High Commission in the United Kingdom in August 2024, she was informed that doubts had arisen regarding the authenticity of her Certificate of Birth and, consequently, her Ghanaian nationality. She maintains that she vigorously defended the document's authenticity, emphasizing that it had been lawfully obtained through official channels after all prescribed procedures were completed.

14. The Applicant further alleges that although she was never formally notified in writing of any decision concerning her citizenship status, officials of the High Commission informed her that her nationality was considered doubtful and could not be relied upon for purposes of passport renewal, notwithstanding the various documents and evidence she had submitted to establish her Ghanaian citizenship.

15. The Applicant states that during the interview, she was advised to travel to Nigeria to obtain an original birth certificate or to swear an affidavit of birth. According to her, this directive was written on an unsigned piece of paper by an unidentified official of the High Commission. She contends that she rejected the suggestion because she had no ancestral connection to Nigeria and that compliance with such advice would be inconsistent with her claim to Ghanaian nationality.



16. The Applicant further avers that she was subsequently required to undergo DNA testing at her own expense in order to establish her biological and ancestral links to Ghana. She maintains that she and her husband incurred substantial expenses pursuing the renewal of her passport and engaged in extensive correspondence with the Ghana High Commission, the Attorney-General of Ghana, and other Ghanaian authorities, but received no satisfactory response.
17. The Applicant states that her legal counsel also addressed several communications to the Attorney-General of Ghana, the Speaker of Parliament, the Chairman of the Parliamentary Committee on Constitutional and Legal Affairs, and the Ghana High Commission in the United Kingdom, seeking intervention in the matter and requesting confirmation of the status of her passport application. She alleges that these communications equally failed to yield any response or resolution.
18. In support of her claim to Ghanaian nationality, the Applicant relies on documentary evidence, including her mother's Ghana National Identity Card, a statutory declaration by her mother confirming that she is the Applicant's biological mother and a Ghanaian citizen, and an affidavit sworn by the Applicant confirming the change of her name following marriage.
19. The Applicant further states that prior to her relocation from Nigeria to the United Kingdom in 2019, she regularly visited family members in Ghana without difficulty. However, in 2024, upon learning of her maternal grandmother's illness, she sought assistance from the Ghana High Commission in both Nigeria and the United Kingdom but was allegedly



informed that she would neither be issued a renewed passport nor be permitted entry into Ghana. She avers that her grandmother subsequently passed away in June 2024 and that she was unable to attend the funeral or pay her last respects due to the refusal to renew her passport.

20. The Applicant contends that the Respondent's refusal to renew her passport and to recognize her nationality has effectively rendered her stateless and deprived her of the ability to enter Ghana, which she considers her country of birth and nationality. She states that these circumstances compelled her to institute the present proceedings.

21. Finally, the Applicant avers that she resides in the United Kingdom on a visa due to expire in 2025 and that the refusal to renew her Ghanaian passport has placed her in a precarious legal position, affecting both her immigration status and her ability to regularize her stay in the United Kingdom.

b) Applicant's Pleas in Law

22. The Applicant cited and relied on the following laws for the prosecution of her case:

- i. Article 12(2) of the African Charter on Human Peoples Rights
- ii. Article 12(4) of the International Convention on Civil and Political Rights
- iii. Article 13(2) of the Universal Declaration on Human Rights
- iv. Article 21(1)(g) of the Constitution of Ghana

c) Reliefs sought by the Applicant



23. The Applicant seeks the following reliefs from the Court:

- i. A DECLARATION that the Applicant is still a citizen of the Republic of Ghana and her citizenship, by virtue of birth and nationality, cannot be denied by any administrative action and or any act of the Respondent.
- ii. A DECLARATION that the official action of the Respondent and all its agents is a violation of the Applicant's Fundamental Human Rights to freedom of movement to leave and return to the Republic of Ghana as guaranteed by Article 12(2) of the African Charter on Human and Peoples Rights and Article 21(2) of the constitution of Ghana and Violation of the right to nationality and the right not to be arbitrarily deprived of her nationality.
- iii. AN ORDER for a Reinstatement and for the issuance of a new and immediate international passport of Ghana to the Applicant by the Respondent and its agents.
- iv. AN ORDER of this Honourable Court directing the Respondent to pay to the Applicant the sum of \$100,000,000.00 (One Hundred Million Dollars) only as aggravated and general damages for the violation of the Applicant's rights.
- v. AN ORDER of this Honourable Court directing the Respondent to pay over to the Applicant the sum of \$100,000,000. 00 (One Hundred Million Dollars) for the moral prejudice occasioned on the Applicant by all the Respondent's actions.

CHD
\$ 100,000,000.00

- vi. AN ORDER of this Honourable Court directing the Respondent to pay over to the Applicant the sum of \$50,000. 00 (Fifty Thousand Dollars) for the costs of prosecuting this suit.
- vii. AND ANY OTHER ORDER OR ORDERS the Community Court of Justice might make in the circumstances of this case.

VI. RESPONDENT'S CASE

24. The Respondent was duly served but did not present a defence.

VII. PROCEEDINGS BEFORE THE COURT

Motion for judgment by default

25. The Respondent did not present any defense in response to the Applicant's application, despite having been duly served by the Court.

Application for judgment by default

26. Following the Respondent's failure to file a defence, the Applicant, pursuant to Article 90 of the Rules of Procedure, filed an application for judgment by default, requesting the Court to grant the Declarations and Orders set out in paragraph 23 above, which are hereby deemed fully reproduced.



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

27. The instant Application was instituted on the 19th of May 2025 by the Applicant seeking redress for the alleged violations of her right to freedom of movement and of nationality. The Initiating Application was duly served on the Respondent on the 20th of May 2025 in accordance with the requirements of Article 35 of the Rules of the Court, 2002 (hereinafter referred to as “the Rules of Court”), which obliges a Respondent, within one month of service of an application, to lodge a Statement of Defence setting out, inter alia, its factual and legal arguments, the relief sought, and any evidence upon which it intends to rely. Article 35(2) further permits an extension of the prescribed time limit only upon a reasoned application made by the defendant and granted by the President of the Court.

28. Notwithstanding proper service of the Initiating Application, the Respondent failed to lodge a Statement of Defence within the time prescribed under Article 35(1) of the Rules of Court and did not seek any extension of time pursuant to Article 35(2). Consequently, the Applicant filed an Application on the 10th of October 2025 under Article 90(1) of the Rules of Court, praying the Court to enter judgment in default of defence. The said Application for Default Judgment was likewise duly served on the Respondent on the same date it was filed.

29. Thereafter, the matter was scheduled for hearing on the 15th of May 2026, and hearing notices were duly served on both Parties. On the appointed date, the Applicant appeared through Counsel and moved her Application for Default



Judgment. The Respondent, however, neither appeared nor was represented before the Court and provided no explanation for its absence. Having heard the submissions of Counsel for the Applicant, the Court reserved the matter for judgment.

30. The Court recalls Article 90 of the Rules of Court which governs the procedure relating to judgments by default and provides, in relevant part, as follows:

1. *“If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the prescribed time, the applicant may apply for judgment by default.*
2. *The application shall be served on the defendant.*
3. *The Court may decide to open the oral procedure on the application.*
4. *Before giving judgment by default, the Court shall, after considering the circumstances of the case, determine:*

(a) Whether the application initiating proceedings is admissible;

(b) Whether the appropriate procedural formalities have been complied with; and

(c) Whether the application appears to be well-founded.”

31. The Court notes from the foregoing provisions that the grant of a judgment by default is not automatic upon the failure of a defendant to file a defence. Rather, the Court is under a duty to satisfy itself that the conditions stipulated under Article 90(4) of the Rules of Court have been met. This position has



been consistently affirmed in the jurisprudence of this Court, notably in *MR. CHUDE MBA v. THE REPUBLIC OF GHANA (2013) CCJELR 335*, where the Court held as follows:

“Pursuant to the provisions of Article 90(4) above, this Court, in deciding whether or not to grant the Application for default judgment, has to consider the issue of admissibility of the action, the fulfillment of procedural requirements, as well as the sufficiency of facts adduced by the Applicant to warrant the granting of the default judgment.”

32. The Court observes, however, that the fact that an applicant seeks judgment by default does not automatically mean that the action will be upheld, with the applicant winning the case, since the Court must examine of its own motion the questions of jurisdiction, admissibility and evidence, before determining the merits of the legal proceedings (vide *ABIGUIME MAGUILIWE & 52 ORS V. THE REPUBLIC OF TOGO* Judgment No. ECW/CCJ/JUD/26/24 *MOHAMMED EL TAYYIB BAH v. THE REPUBLIC OF SIERRA LEONE (2015) (SUPRA), PAGE 6*).

VIII. JURISDICTION

33. Jurisdiction being the foundation upon which the Court’s authority to adjudicate rests, it is imperative that the Court first satisfies itself that it is properly seized of the matter before proceeding to consider any other issues arising for determination. Indeed, it is a settled principle that where a court lacks jurisdiction, any further exercise of judicial authority would be null and void. Accordingly, the Court shall first examine whether it



possesses the requisite jurisdiction to entertain the present Application before addressing the substantive issues raised therein.

34. The instant Application is predicated on allegations of violations of the Applicant's fundamental human rights by the Respondent. The human rights jurisdiction of this Court is conferred by Article 9(4) of Supplementary Act SA.1/12/25 Relating to the Community Court of Justice, 2025 (hereinafter referred to as "the Supplementary Act"), which provides as follows:

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

35. In this regard, the Court has consistently held that an allegation of human rights violations occurring within the territory of a Member State is, *prima facie*, sufficient to vest it with jurisdiction, without prejudice to the subsequent examination of the merits of the claim. See *AFANVI AKUYO V. THE TOGOLESE REPUBLIC* Judgment No. ECW/CCJ/JUD/11/25; *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) & 10 ORS v. FEDERAL REPUBLIC OF NIGERIA & 4 ORS*, Judgment No. ECW/CCJ/JUD/16/14, p. 25; and *HON. JUSTICE S. E. ALADETOYINBO v. FEDERAL REPUBLIC OF NIGERIA*, Judgment No. ECW/CCJ/JUD/18/20, p. 8.

36. In the present case, the Applicant alleges violations of her right to freedom of movement, particularly her right to leave and return to her country of nationality, as guaranteed under Article 12(2) of the African Charter on Human and Peoples' Rights. She further alleges a violation of her right to



nationality arising from the Respondent's refusal to renew her passport and its conduct in questioning her citizenship status.

37. These allegations clearly raise issues concerning the protection and enforcement of fundamental human rights within the meaning of Article 9(4) of the Supplementary Act. Consequently, the Court is satisfied that the Application falls squarely within its human rights mandate.

38. Accordingly, the Court finds that it has jurisdiction to entertain and determine the present Application.

IX. ADMISSIBILITY

39. The admissibility of applications alleging violations of human rights before this Court is governed by Article 10(4) of Supplementary Act SA.1/12/25 Relating to the Community Court of Justice, 2025, which provides as follows:

“Access to the Court is open to ... an individual 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.”



40. The effect of the foregoing provision is that an application alleging human rights violations will be admissible where: (i) the applicant is identifiable and therefore not anonymous; (ii) the applicant claims to be a victim of the alleged human rights violations; and (iii) the same matter is not pending before another competent international court or tribunal for adjudication. See *ASSIMA KOKOU INNOCENT & ORS v. REPUBLIC OF TOGO*, ECW/CCJ/JUD/08/13, p. 9.

41. The Court has consistently held that compliance with these conditions is mandatory in all human rights applications brought before it. Accordingly, an application alleging violations of human rights must disclose the identity of the applicant and must not be simultaneously pending before another competent international judicial forum. See *SATTA LAMIN BANYA v. REPUBLICA OF SIERRA LEONE* ECW/CCJ/JUD/15/25 para. 43.

42. In the instant case, the Court notes, firstly, that the Applicant has clearly identified herself as Mary Omerere, whom she describes as a citizen of the Republic of Ghana. In support of her identity, she has produced documentary evidence, including her birth certificate and Ghanaian international passport. The Court is therefore satisfied that the present Application is not anonymous and consequently fulfils the first requirement of admissibility.

43. Secondly, the Applicant alleges that she is personally affected by the acts complained of, namely the refusal of the Respondent to renew her passport, the questioning of her nationality, and the resulting restrictions on her



ability to travel and return to Ghana. She therefore claims to be a victim of the alleged human rights violations and has the requisite standing to bring the present action before the Court.

44. Thirdly, there is nothing in the record before the Court to suggest that the subject matter of this Application has been submitted to, or is pending before, any other competent international court or tribunal. The Court is therefore satisfied that the requirement against parallel international proceedings has equally been met.

45. In light of the foregoing, the Court finds that the Applicant has satisfied all the admissibility requirements prescribed under Article 10(4) of the Supplementary Act. Accordingly, the Application is admissible. Having found that the conditions stipulated under Article 90(4) of the Rules of Court have been complied with, the Court is satisfied that the Application for Default Judgment is properly before it and shall proceed to examine the other two elements.

In compliance with the appropriate formalities

46. Having the Court established its jurisdiction over the case and ruled it admissible, Article 90 (2) of the Rules of Court also requires the compliance with the appropriate formalities, as provided for in Articles 33, 34 and 35 of the Rules of Court.

47. Articles 33 and 34 are provisions concerning the constitutive elements of an application that can be accepted by the Court, as well as the details of



the service protocols, including the methods of service. On the other hand, the provisions of Article 35 are instructions for the defendant regarding the time limit for responding to an application.

48. The Court has meticulously examined the record of proceedings and the processes filed by the Applicant. Verified that the Initiating Application was duly lodged before the Registry of the Court in accordance with the applicable provisions of the Rules of Court. The Court recalls its holding in *Mr. CHUDE MBA v. REPUBLIC OF GHANA* that:

“The first formality that must be observed throughout the process has to do with the adversarial principle, which aims at notifying the Defendant that an Application has been filed against him or her before the Court and affording him or her the opportunity to defend the action.”

49. The observance of this principle is fundamental to the administration of justice and the preservation of the right to a fair hearing. The record before the Court clearly demonstrates that the Respondent was duly served with the Initiating Application and all accompanying processes. The record further shows that the Application for Default Judgment was equally served on the Respondent. Notwithstanding such service, the Respondent failed to file any Statement of Defence, response, or other process challenging the claims of the Applicant, and equally failed to appear before the Court when the Application for Default Judgment was called for hearing on 15 May 2026.

50. In these circumstances, the Court is satisfied that the requirements relating to the lodgment, processing, and service of both the Initiating Application

Uos
CAO
R

and the Application for Default Judgment have been fully complied with. The Respondent was afforded ample notice of the proceedings and a reasonable opportunity to defend the action but elected not to do so. Accordingly, the Court finds that all the requisite procedural formalities prescribed by the Rules of Court have been duly observed.

Whether the Application is well-founded

51. The final consideration required of the Court under Article 90(4) of the Rules of Court is whether the Application appears to be well-founded. Even where a Respondent has failed to enter a defence or otherwise participate in the proceedings, the Court is not relieved of its duty to examine the merits of the Applicant's claims. A judgment by default is therefore not granted as a matter of course; rather, the Court must be satisfied that the facts and evidence placed before it, disclose a sustainable cause of action and are capable of justifying the reliefs sought.

52. Article 90(4)(c) of the Rules of Court obliges the Court to ascertain whether the application is well-founded before entering judgment by default. In this regard, *Black's Law Dictionary* (10th Edition, Bryan A. Garner, Editor-in-Chief) defines the term "*well-founded*" as:

"Of a belief, feeling, suspicion, etc., based on facts combined with good judgment."

53. Applying this definition, the Court considers that an application can only be regarded as well-founded where it is supported by credible facts, relevant evidence, and sound legal reasoning capable of establishing,



prima facie, the rights asserted and the violations alleged. In other words, the Applicant must demonstrate, through admissible evidence, that her claims are not speculative, frivolous, or manifestly unfounded, but rather disclose facts which, if established, are capable of engaging the responsibility of the Respondent and warranting the reliefs sought. See *MOHAMMED EL TAYYIB BAH v. REPUBLIC OF SIERRA LEONE*, Judgment No. ECW/CCJ/JUD/11/15 and *VISION KAM JAY INVESTMENT LTD. v. PRESIDENT OF THE ECOWAS COMMISSION & ANOR.*, Judgment No. ECW/CCJ/JUD/24/16.

54. Accordingly, notwithstanding the Respondent's failure to file a defence, the burden remains on the Applicant to establish the factual and legal basis of the claims before the Court. The Court must therefore evaluate the totality of the evidence placed before it in order to determine whether the alleged violations have been sufficiently substantiated and whether the reliefs sought are justified in law.

55. It is in the light of the foregoing considerations that the Court shall now proceed to examine the evidence adduced by the Applicant in support of the alleged violations and determine whether the Application is well-founded within the meaning of Article 90(4)(c) of the Rules of Court.

X. MERITS

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



a) On the Alleged Violation of the Right to Freedom of Movement and the Right to Enter One's Country

57. The Applicant alleges that the Respondent violated her right to freedom of movement by refusing and/or failing to renew her Ghanaian passport, despite her claim to Ghanaian nationality and her production of documentary evidence supporting that status. She further contends that the Respondent's conduct has effectively prevented her from returning to Ghana, attending family events, and regularizing her immigration status abroad.

The Court's Analysis

58. Article 12(2) of the *AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS* provides:

"Every individual shall have the right to leave any country, including his own, and to return to his country. This right may only be subject to restrictions provided for by law for the protection of national security, law and order, public health, or morality."

59. Similarly, Article 12(4) of the *INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS* provides that:

"No one shall be arbitrarily deprived of the right to enter his own country."

60. The Court recalls that the right to freedom of movement encompasses not merely the freedom to travel within and outside a State, but also the right of an individual to return to his or her country of nationality. In *NNAMDI*



KANU v. FEDERAL REPUBLIC OF NIGERIA & 2 ORS., ECW/CCJ/JUD/34/19, this Court affirmed that the right guarantees an individual's ability to leave a State and return to his country without unjustified interference. Likewise, in *SUNDAY CHARLES UGWUABA v. REPUBLIC OF SENEGAL*, ECW/CCJ/JUD/25/19, the Court held that any restriction on this right must satisfy the requirements of legality, necessity, and proportionality.

61. Indeed, it is the considered opinion of this Court that freedom of movement is a fundamental enabling right essential to an individual's development and the effective enjoyment of other rights, including the rights to liberty, security, privacy, family life, work, and the freedoms of expression, assembly, and association. Without the ability to move freely, the practical exercise of these rights may be significantly impaired. See *General Comment No. 27 on Article 12 of the ICCPR, adopted at the Sixty-seventh session of the Human Rights Committee, on 2 November 1999*.

62. The Human Rights Committee, again in its General Comment 27, *supra*, has equally emphasized that the right to leave and return to one's country necessarily includes the right to obtain the travel documents required to exercise that freedom. The Committee stated:

"The right to leave a country must include the right to obtain the necessary travel documents. The refusal by a State to issue a passport or prolong its validity for a national residing abroad may deprive that person of the right to leave the country of residence and to travel elsewhere."

CMA
Z
UW

63. Similarly, in *MONTERO v. URUGUAY*, *Communication No. 106/1981*, the Human Rights Committee held that a passport constitutes an indispensable instrument for the enjoyment of the right guaranteed under Article 12 of the Covenant and that a State of nationality bears obligations towards its citizens residing abroad.

64. The Court further notes that contemporary international human rights law recognizes a close nexus between nationality, passport issuance, and freedom of movement. In *ANUDO OCHIENG ANUDO v. UNITED REPUBLIC OF TANZANIA*, *Application No. 012/2015*, Judgment of 22 March 2018, the African Court on Human and Peoples' Rights held that the arbitrary deprivation of nationality, resulting in the inability of a person to return to his country, violated both the right to nationality and the right to freedom of movement. The Court stressed that a State cannot arbitrarily deprive an individual of the legal means necessary to return to their country.

65. Likewise, in *KENNEDY GIHANA & OTHERS v. REPUBLIC OF RWANDA*, *Application No. 017/2015*, Judgment of 28 November 2019, the African Court found that the arbitrary invalidation of passports without due process effectively prevented the applicants from returning to their country and amounted to a violation of Article 12(2) of the African Charter. The Court further observed that the withdrawal or denial of passports must be justified by lawful reasons falling within the permissible limitations recognized under international human rights law.



66. The Court also finds persuasive the reasoning of the Human Rights Committee in *EL DERNAWI v. LIBYAN ARAB JAMAHIRIYA*, *Communication No. 1143/2002*, where it held that a state's failure to provide travel documentation to its national may result in a violation of the individual's right to freedom of movement and ability to enter his own country.
67. Turning to the facts of the instant case, the evidence before the Court establishes that the Applicant was previously recognized by the Respondent as a Ghanaian citizen and was issued with a Ghanaian passport valid from 12 December 2018 to 11 December 2023. The Applicant applied for renewal of that passport prior to its expiration and subsequently produced before this Court copies of her passport, birth records, evidence relating to her mother, and other documents linking her to Ghanaian nationality.
68. The Applicant further adduced evidence that, despite repeated approaches to the Ghana High Commission and other Ghanaian authorities, she was never furnished with any formal decision explaining the refusal or delay in the renewal of her passport. Instead, she was allegedly informed orally that doubts existed regarding her nationality and was advised to obtain a Nigerian birth certificate or affidavit of birth despite maintaining that she had no ancestral ties to Nigeria.
69. Most significantly, in the case in analysis, the Respondent has not provided this Court with any evidence demonstrating that the restriction complained of was prescribed by law or justified on grounds of national security, public

Z. C. M. D.
405 *R*

order, public health, or morality, as required by Article 12(2) of the African Charter. Neither has the Respondent shown that the Applicant was afforded any administrative process through which she could challenge the doubts allegedly raised concerning her nationality.

70. The Court considers that the refusal or indefinite delay in renewing the passport of a person previously recognized as a national, without a formal decision, without due process, and without any lawful justification, creates a situation of legal uncertainty capable of seriously impairing the exercise of the right to freedom of movement. Such conduct becomes particularly grave where it prevents the individual from returning to his or her country of nationality or places the person at risk of statelessness.

71. International law has consistently condemned actions by States that arbitrarily render individuals stateless or deprive them of the practical means of entering their own country. The Court notes that the Applicant has adduced evidence showing that the impugned conduct prevented her from travelling to Ghana, attending the funeral of her grandmother, maintaining family ties, and regularizing her immigration status in the United Kingdom. These consequences are directly linked to the Respondent's failure to provide her with valid travel documentation.

72. In the absence of any explanation from the Respondent and having regard to the uncontroverted evidence before it, the Court finds that the Respondent's failure and/or refusal to renew the Applicant's passport constituted an unjustified interference with her right to freedom of



movement and her right to enter her own country as guaranteed under Article 12(2) of the African Charter and Article 12(4) of the ICCPR.

73. Accordingly, the Court holds that the Respondent violated the Applicant's rights to freedom of movement and to return to her country.

b) On the Claim of Being Stateless

74. The Applicant alleges that the Respondent's refusal to renew her passport and to recognize her nationality has effectively rendered her stateless and deprived her of the ability to enter Ghana, which she considers her country of birth and nationality. She states that these circumstances compelled her to institute the present proceedings.

The Court's Analysis

75. The Court further observes that the Applicant alleges that she has effectively been rendered stateless as a result of the Respondent's refusal to renew her Ghanaian passport. While the evidence before the Court does not permit it to make a definitive determination on whether the Applicant was formally deprived of her nationality, the circumstances of the case reveal that the Respondent's conduct placed her in a situation closely analogous to de facto statelessness. Indeed, having previously recognised the Applicant as a Ghanaian national by issuing her a Ghanaian passport, the Respondent subsequently deprived her of the practical means of



enjoying the rights and privileges ordinarily associated with that nationality, without communicating any formal decision, legal basis, or procedure through which such recognition had been withdrawn. This situation not only created uncertainty regarding her legal status but also substantially impaired her ability to exercise rights intrinsically linked to nationality, including the right to leave and return to her country.

76. In this regard, the Court finds guidance in the judgment of the African Court on Human and Peoples' Rights in *ANUDO OCHIENG ANUDO v. UNITED REPUBLIC OF TANZANIA*, Application No. 012/2015, Judgment of 22 March 2018. In that case, the African Court held that where a State has previously recognised an individual as its national through the issuance of official documents, the burden rests on the State to establish, through lawful procedures and cogent evidence, that the individual is not in fact a citizen. The Court further emphasised that decisions affecting nationality cannot be left to mere administrative or executive discretion, but must be accompanied by due process guarantees, including the opportunity for the affected individual to be heard before a competent and independent authority.

77. The Court notes that, in the present case, the Respondent has not produced any evidence showing that the Applicant's nationality was ever lawfully revoked, challenged, or reviewed through any procedure recognised by law. Nor has the Respondent demonstrated that the Applicant was afforded an opportunity to contest any adverse decision concerning her nationality status. To the contrary, the evidence before the Court indicates that, despite

having previously been recognised as a Ghanaian citizen and issued with a Ghanaian passport, the Applicant was subjected to prolonged uncertainty regarding her nationality and denied access to a valid travel document without explanation or due process.

78. Having carefully examined the uncontroverted evidence placed before it, the Court is satisfied that the Applicant has established, on a balance of probabilities, that the Respondent's failure and/or refusal to renew her Ghanaian passport substantially impaired her ability to leave, return to, and maintain effective legal ties with her country of nationality. The Court further finds that this situation, while not conclusively establishing formal deprivation of nationality, produced consequences comparable to those associated with de facto statelessness and directly interfered with the Applicant's enjoyment of her right to freedom of movement.

79. In light of the foregoing, the Court finds that the Applicant's claim concerning the violation of her right to freedom of movement is well founded. Accordingly, having determined that the requirements relating to jurisdiction, admissibility, compliance with the applicable procedural rules, and the substantiation of the claim have all been satisfied, the Court grants the Application for Default Judgment and enters judgment in favour of the Applicant on this head of claim.

XI. REPARATIONS

80. The Applicant sought the following reliefs from the Court:



i. AN ORDER for a Reinstatement and for the issuance of a new and immediate international passport of Ghana to the Applicant by the Respondent and its agents.

ii. AN ORDER of this Honourable Court directing the Respondent to pay to the Applicant the sum of \$100,000,000.00 (One Hundred Million Dollars) only as aggravated and general damages for the violation of the Applicant's rights.

iii. AN ORDER of this Honourable Court directing the Respondent to pay over to the Applicant the sum of \$100,000,000. 00 (One Hundred Million Dollars) for the moral prejudice occasioned on the Applicant by all the Respondent's actions.

The Court's Analysis

81. Having found that the Respondent violated the Applicant's right to freedom of movement, including her right to return to her country, as guaranteed under Article 12(2) of the African Charter on Human and Peoples' Rights and Article 12(4) of the International Covenant on Civil and Political Rights, the Court shall now consider the appropriate remedies.

82. The Court recalls that the right to reparation is a fundamental and consolidated human right. It is a well-established principle of international law, first articulated by the Permanent Court of International Justice in the *Chorzów Factory* case (*GERMANY v. POLAND*, Judgment No. 13, 13 September 1928, P.C.I.J., Series A, No. 17, p. 29), that "any violation of a commitment involves an obligation of reparation,". The primary objective of reparation is restitutio

in integrum, which aims, as far as possible, to erase the consequences of the wrongful act and restore the victim to the position she would have been in had the violation not occurred. While the African Charter does not contain an explicit article on the broad obligation to compensate, this Court and other regional mechanisms consistently interpret the right to an effective remedy to include appropriate forms of restitution, compensation, satisfaction, and guarantees of non-repetition. (See *GBELA GUELAO & 3 ORS V. COTE D'IVOIRE ECW/CCJ/JUD/18/25*; *EKUNDAYO IDRIS V. THE FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/09/22*; *REGISTERED TRUSTEES OF FACULTY OF PEACE ORGANISATION & 3 ORS V FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/06/22*; *ANUDO OCHIENG ANUDO V. UNITED REPUBLIC OF TANZANIA, APPLICATION NO. 012/2015*; *LOAYZA TAMAYO V. PERU* (Reparations), IACtHR, 1998.)

83. The Court observes that the Applicant has established a clear causal link between the Respondent's failure to renew her passport and the resulting harm. The refusal deprived her of the practical means of returning to Ghana, maintaining family ties, and regularising her immigration status abroad. This interference fundamentally damaged her "Life Project"; the realization of her personal and professional expectations which can only be achieved through the exercise of her fundamental rights. Furthermore, the Court takes judicial notice of the profound "pain, distress, and grief" occasioned by her inability to visit her ailing grandmother or attend her funeral, damages which are presumed in cases of serious human rights violations affecting family integrity.

84. In the circumstances, the Court considers that the most appropriate form of reparation is restitution aimed at restoring the Applicant's enjoyment of her

CHD R
400 2

right to freedom of movement. Restitution must specify precisely which rights are to be restored to provide clear guidance to the State. Accordingly, the Respondent shall, within six (6) months of the notification of this Judgment, take all necessary administrative measures to process and determine the Applicant's passport application in accordance with law and due process and communicate its decision to the Applicant in writing.

85. The Court further finds that the uncertainty, anxiety, and alteration of the conditions of life caused by the Respondent's conduct constituted moral prejudice (non-pecuniary damage) for which compensation is warranted. Such damages encompass suffering, anguish, and the "tampering with the essential values of the victim". However, the Court notes that while it recognizes the gravity of the harm, the Applicant has not adduced sufficient evidence to justify the award of the sum of USD 100,000,000, as reparations must not imply the unjust enrichment of the victim.

86. Exercising its equitable jurisdiction; a standard practice for international tribunals when moral harm cannot be measured by a precise monetary equivalent; the Court awards the Applicant compensation based on the principles of equity and proportionality to the gravity of the violation. Having regard to the nature of the violation established, the duration of the restriction, and the Court's own precedent in significant human rights cases (such as *HADIJATOU MANI KORAOU V. REPUBLIC OF NIGER* ECW/CCJ/JUD/06/08, where similar sums were awarded for moral harm), the Court awards the Applicant the sum of USD 15,000 (Fifteen Thousand United States Dollars) as compensation for moral prejudice.

87. As a guarantee of non-repetition, which serves as a protective measure to ensure the rule of law and prevent future recurrence of similar wrongful acts,



the Court further orders the Respondent to refrain from any future administrative action that would unjustifiably restrict the Applicant's ability to exercise her right to freedom of movement. This order reflects the "transformative vocation" of international reparations, which seeks not only to restore the status quo but to correct structural administrative failures that lead to rights violations.

88. All other claims for compensation not specifically granted herein are dismissed.

XII. COSTS

89. The Court notes that the Applicant has successfully prosecuted the present action and has specifically prayed for an order directing the Respondent to pay the sum of USD 50,000 (Fifty Thousand United States Dollars) as costs incurred in the prosecution of the suit. In this regard, Article 66(2) of the Rules of Court provides that:

"The unsuccessful party shall be ordered to pay the costs if they have been applied for."

90. While the Applicant is entitled to seek an award of costs, the Court observes that no evidence was adduced to substantiate the specific amount claimed. In particular, the Applicant did not provide any details or supporting documentation regarding legal fees, administrative expenses, travel costs, or any other expenditure allegedly incurred in prosecuting the action.

91. The Court reiterates that, although costs generally follow the event, the assessment of costs remains a matter within its judicial discretion. Such



discretion must, however, be exercised judiciously and on the basis of relevant and ascertainable factors. In the absence of sufficient evidence establishing the actual expenditure incurred by the Applicant, the Court is unable to determine with precision the quantum of costs claimed.

92. Accordingly, the Court finds that the Applicant is entitled to an award of costs. However, rather than granting the specific sum claimed, the Court directs that the costs payable by the Respondent be assessed by the Registrar of the Court, taking into account all relevant circumstances of the case, including the nature and complexity of the proceedings, the work reasonably undertaken in the prosecution of the action, and any other relevant factors necessary to arrive at a fair and reasonable assessment.

XIII. OPERATIVE CLAUSE

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

On Jurisdiction

- a. **Declares** that it has jurisdiction to entertain the Application

On the Admissibility:

- b. **Declares** the Application admissible

The merits of the case:



c. **Declares** as established that the Respondent violated the Applicant's right to freedom of movement, including her right to return to her country, as guaranteed under Article 12(2) of the African Charter on Human and Peoples' Rights and Article 12(4) of the International Covenant on Civil and Political Rights.

Reparations:

- i. The Court orders the Respondent, within six (6) months from the date of notification of this Judgment, to take all necessary administrative measures to process and determine the Applicant's passport application in accordance with law, due process, and the Respondent's international human rights obligations, and to communicate its decision to the Applicant in writing.
- ii. The Court orders the Respondent to pay to the Applicant the sum of USD 15,000 (Fifteen Thousand United States Dollars) as compensation for the moral prejudice suffered as a result of the violation of her right to freedom of movement and right to return to her country.
- iii. The Court orders the Respondent to refrain from any future conduct that unjustifiably restricts the Applicant's exercise of her right to freedom of movement except in accordance with due process of law and the limitations permitted under Article 12(2) of the African Charter on Human and Peoples' Rights.
- iv. The Court dismisses the Applicant's claim seeking a declaration that she is a citizen of the Republic of Ghana, without prejudice to her right to pursue any appropriate administrative or judicial remedies concerning her nationality status before the competent authorities.
- v. The Court dismisses the Applicant's claims for aggravated and general damages in excess of the amount specifically awarded herein.

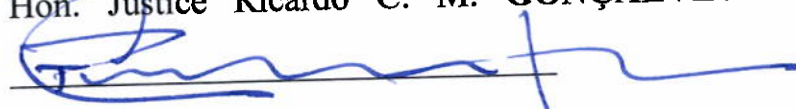
CHA
Yes
[Handwritten signature]

ON THE COSTS:

94. Pursuant to Article 66(2) of the Rules of Court, the Respondent 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. Yaouza **OURO-SAMA** - Chief Registrar



95. Done in Abuja, this 23rd day of June 2026 in Portuguese and translated into English and French.

