AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

APPLICATION FOR REVIEW No. 001/2022

IN THE MATTER OF

KOUADIO KOBENA FORY

V.

REPUBLIC OF COTE D'IVOIRE

RULING

1 DECEMBER 2022

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
The Registrar
LE GREFFIER
ARUSHA TANZANIA
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

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The Court composed of: Imani D. ABOUD, President; Blaise TCHIKAYA, Vice-President; Ben KIOKO, Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI - Judges; and Robert ENO, Registrar.

In the Matter of:

KOUADIO KOBENA FORY
Self-Represented

Versus

REPUBLIC OF CÔTE D'IVOIRE
represented by:
Ms Ly Kadiatou SANGARE, Judicial Agent of the Treasury

after deliberation,

renders this Judgment:

I. THE PARTIES

1. Mr Kouadio Kobena Fory (hereinafter referred to as "the Applicant") is an Ivorian national. He seeks a review of the Court's judgment delivered on 2 December 2021 in his initial Application No. 034/2017 of 8 November 2017.

2. The Application was filed against the Republic of Côte d'Ivoire (hereinafter referred to as "the Respondent State"), which became a Party to the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter"), on 31 March 1992, and to the Protocol on the Establishment of an African Court

on Human and Peoples' Rights (hereinafter referred to as "the Protocol") on 25 January 2004. Furthermore, the Respondent State, on 23 July 2013, deposited the Declaration provided for in Article 34(6) of the Protocol (hereinafter referred to as "the Declaration") by virtue of which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organizations having observer status before the Commission. On 29 April 2020, the Respondent State deposited with the Chairperson of the African Union Commission an instrument of withdrawal of its Declaration. The Court held that such a withdrawal has no bearing on pending cases and on new cases filed with it before the withdrawal came into effect one year after the said instrument was deposited, that is, on 30 April 2021.

II. SUBJECT OF THE APPLICATION

3. On 2 December 2021, the Court delivered a judgment (hereinafter the Judgment"") in Application No. *034/2017: Kouadio Kobena Fory v. Republic of Côte d'Ivoire*[1]. Following the Judgment, the Applicant filed an application for review (hereinafter referred to as "the Application") on 17 January 2022, claiming that he had discovered new and erroneous facts which in his view, constitute new evidence.

III. BRIEF BACKGROUND OF THE MATTER

4. In the initial Application filed with the Court on 8 November 2017, the Applicant alleged that the Respondent State violated his rights to a fair trial, physical and moral integrity, dignity and privacy, liberty and security of the person, as well as his right to work, to remuneration and to landed property.

[1] *Kouadio Kobena Fory v. Republic of Côte d'Ivoire*, ACtHPR, Application No. 034/2017, Judgment of 2 December 2021 (Merits and Reparations).

5. He therefore prayed the Court to order the Respondent State to reinstate him as Paymaster, immediately deconfiscate his landed property, annul his criminal sentence of ten years' imprisonment, the pay him the sum of Eight Billion (8,000,000,000) United States dollars as reparation for the extra-patrimonial damage he suffered, pay himOne Billion One Hundred And Eighty-Eight Million (1,188,000,000) US dollars in damages for violation of his property rights, pay him the sum of Twenty Million (20,000,000) US dollars in back pay and benefits, reimburse him legal fees and expenses and to publish the judgment in the "*Fraternité Matin*" daily newspaper.

6. The Court delivered its judgment on 2 December 2021, the operative part of which is as follows:

On jurisdiction

i. Finds that it has jurisdiction to hear the alleged violations committed after the date of entry into force of the Protocol in regard to the Respondent State.

On admissibility

ii. *Finds* that the objection based on inadmissibility is founded in relation to the prohibition of arbitrary arrest and detention and the alleged violation of the right to the respect of his political opinion*;*
iii. *Declares* inadmissible the allegation of violation of the right to work, to remuneration and to property;
iv. Dismisses the objection based on the alleged violations of the right to be tried within a reasonable time*;*
v. *Declares* the Application admissible.

On merits

vi. Finds that the Respondent State has violated the Applicant's right to a hearing within a reasonable time as guaranteed in Article 7(1)(d) of the Charter;

On reparations

On pecuniary reparations

Unanimously

vii. Finds that the request for reparation for prejudice related to the right to work, to remuneration, and to property is moot*;*

viii. Dismisses the request for the reimbursement of travel expenses purportedly incurred by the Applicant's family members to visit him during his detention;

ix. Orders the Respondent State to pay the Applicant the sum of Forty-five million (45,000,000) CFA francs, which breaks down as follows:

a) Forty million (40,000,000) CFA francs for the moral damage he suffered;

b) Two million (2,000,000) CFA francs as reparation for the moral prejudice suffered by the Applicant's wife;

c) One million (1,000,000) CFA francs to each of the Applicant’s three (3) children for the moral prejudice they suffered.

7. The said Judgment is the subject of this Application for review.

IV. SUMMARY OF THE PROCEDURE BEFORE THE COURT

8. The Application for Review was filed with the Registry on 17 January 2022 and notified to the Respondent State on 11 February 2022.

9. All pleadings and procedural documents were duly notified and the parties filed their submissions within the stipulated time-limits.

10. Pleadings were closed on 12 September 2022 and the Parties were duly notified thereof.

V. PRAYERS OF THE PARTIES

11. The Applicant prays the Court to review its judgment, in particular, to:

    i. Find that by declaring that it had no jurisdiction to deal with the alleged violations committed before the date of entry into force of the Protocol in respect of the Respondent State, the Court introduced a new fact into the case and disregarded the continuing nature of the violation of his right to be tried by an impartial court;
    ii. Find that he had no remedy against the decision of the Civil Service Disciplinary Board when it refused to reinstate him in his post;
    iii. Re-calculate the time-limits for local remedies in respect of his immovable property, starting from the date on which the domestic courts were seized until the date on which his application was examined by this Court in December 2021, and find that in the present case, local remedies were prolonged unduly;
    iv. Re-evaluate the amount awarded as reparation for moral damage suffered by the members of his family and by himself and set the quantum of reparation higher than or at least equal to the amounts awarded to Sébastien Germain Ajavon, his wife, and his children in Application No.013/2017: *Sébastien Germain Ajavon v. Republic of Benin.*

12. For its part, the Respondent State prays the Court to:

    v. Declare that it lacks personal jurisdiction insofar as the application for review was lodged after 30 April 2021, the date on which the withdrawal of

the Declaration allowing individuals to lodge applications directly against it took effect;

vi. Declare the application for review inadmissible for lack of evidence of new facts;

vii. Dismiss the request for a reassessment of the amount of reparation for moral damage awarded in the original judgment;

viii. Order the Applicant to bear the costs of the proceedings.

VI. JURISDICTION

13. When seized of an application for review, the Court does not have to ensure again that it has jurisdiction.

14. In the instant case, the jurisdiction of the Court was previously established in its judgment of 2 December 2021[2]. However, the Respondent State raises an objection to the personal jurisdiction of the Court.

15. The Court will therefore examine this objection to its jurisdiction.

16. The Respondent State challenges the personal jurisdiction of the Court to hear the present Application. It reminds the Court that it has withdrawn its Declaration. For the Respondent State, given that its withdrawal of the Declaration came into effect on 30 April 2021, no individual or non-governmental organisation (NGO) may file an application against it before the Court as from 1 May 2021.

17. The Respondent State accordingly requests the Court to declare that it lacks personal jurisdiction to entertain the Application for review, dated 13 January

[2] Kouadio Kobena Fory v. Republic of Côte d'Ivoire, ACtHPR, Application N°034/2017, Judgment of 2 December 2021, §§ 21 to 35.

2022, and filed with the Registry of the Court on 17 January 2022, a date subsequent to that on which the withdrawal of its Declaration took effect.

*

18. The Applicant prays the Court to dismiss the objection. Relying on Rules 40 and 78 of the Rules of Court, the Applicant urges the Court to avoid the confusion created by the Respondent State as to its personal jurisdiction. He submits that Rule 40 on the institution of proceedings cannot apply in the case of an application for review. He notes that in the circumstance, the jurisdiction of the Court and the admissibility requirements of an application for review, which are spelt out in Rule 78 of the Rules. He submits that his application for review in respect of the judgment of 2 December 2021 is not a new application but rather a “rebuttal” of Application No. 034/2017 brought before the Court prior to the Respondent State withdrawing its Declaration. The Applicant prays the Court to dismiss the objection to its personal jurisdiction raised by the Respondent State.

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19. The Court emphasises that the purpose of an application for review is not to submit a new case to it but to seek a review of a judgment it has already delivered in a case, in respect of which a revision is sought.

20. In the instant case, the Court notes that the present Application for Review was filed in relation to the initial Application filed on 8 November 2017, which was before the Respondent State's withdrawal of the Declaration took effect on 30 April 2021. In this respect, the Court notes that the withdrawal of the Declaration under Article 34(6) of the Protocol by the Respondent State has no effect on the initial Application and, consequently, on the application for review of the Judgement rendered in the initial case.

21. In the light of the foregoing, the Court finds that it has personal jurisdiction to hear the Application for Review, which was received on 17 January 2022.

VII. ADMISSIBILITY

22. The Applicant states that, on reading the Judgment, he discovered four (4) new facts that negatively influenced the outcome of the case, which he prays the Court to review.

23. The Court observes that within the meaning of Article 28(2) of the Protocol, which restates the provisions of Rule 72(1) of the Rules of Court, its judgments are final and not subject to appeal. However, under Article 28(3) of the Protocol, the Court may, without prejudice to the finality of its judgment as set out in sub-paragraph (2) of the same Article, review its judgment under the conditions laid down in the Rules of Court. Thus, Article 28(3) of the Protocol therefore makes the procedure for review of the Court's judgments an exceptional one, subject to admissibility requirements set out in Rule 78(1) and (2).

24. Rule 78(1) and (2) of the Rules provides as follows:

> 1. A party may, in the event of the discovery of a new fact or evidence, which by its nature, has a decisive influence and which, when the judgment was delivered, was unknown to the party and could not with due diligence have been known to that party, request the Court, within a period of six months after that party acquired knowledge of the fact (or evidence), apply to the Court to revise that judgment. The Court shall not accept any request for review of its judgment after five (5) years of the delivery of the same
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> 2. The Application shall specify the judgment in respect of which review is requested, contain information necessary to show that the conditions laid

down in sub-rule 1 of this Rule have been met, and be accompanied by a copy of all relevant supporting documents.

25. With regard to the indication of the judgment whose review is sought, the Court notes that in the present case the Applicant indicates that he is seeking review of the judgment delivered by the Court on 2 December 2021 in Application No. 034/2017: *Kouadio Kobena Fory v. Republic of Côte d'Ivoire*. Therefore, this requirement is met.

26. Furthermore, in accordance with Rule 78(1) of the Rules, in order to be admissible, the Request for Review must be filed within six (6) months from the date on which the Applicant became aware of the new fact or at least five (5) years from the date of the Judgment (A). The Applicant must also prove the existence of facts or evidence that he or she considers to be new (B).

A. On compliance with the time-limits

27. The Court observes that, in accordance with Rule 78(1) of the Rules of Court, it shall reject of its own motion any application for review of its judgment filed five (5) years after its delivery. In the present case, the judgment in respect of which a review is sought was delivered on 2 December 2021 and the application for review was received at the Court Registry on 17 January 2022, that is, one (1) month and fifteen (15) days after the notification of delivery of the Judgment.

28. Accordingly, the present Application meets the requirement of the five (5)-year-time-limit.

29. With regard to the requirement to comply with a time limit of six (6) months from the discovery of the new fact or evidence, the Applicant submits that it was after reading the Judgment of 2 December 2021 that he discovered evidence, claiming that he was not aware of it at the time the judgment was delivered. In this regard, the Court notes that it was on 27 December 2021 that the Applicant received a

copy of the Judgment by DHL mail. Thus, start date of the six (6) month time-limit under Rule 78(1) is set on 27 December 2021.

30. The Court notes that between the notification of the Judgment to the Applicant on 27 December 2021 and the filing of his Application for Review on 17 January 2022, a period of twenty-one (21) days elapsed.

31. The Court finds that the Applicant also complied with the six (6)-month-time-limit.

32. Accordingly, the Court finds that the Application for Review was filed timeously, in accordance with Rule 78(1) of the Rules.

B. On new facts or evidence

33. The Applicant submits that the developments underlying his application for review relate to the Court's temporal jurisdiction (i), the Court's assertion that the Applicant had a remedy against the decision of the Civil Service Disciplinary Board (ii), the calculation of the duration of the domestic proceedings on the claims relating to his real estate (iii) and the determination of the amount of reparation for non-pecuniary damage suffered by himself and by members of his family (iv).

i. Allegation of a new fact relating to the Court's temporal jurisdiction

34. The Applicant submits that in paragraph 31 of the Judgment of 2 December 2021, the Court introduced a new fact into the case by holding that the alleged violations of his right to equal protection before the law, the right not to be compelled to testify against oneself, the right to protection of the family, the right to be presumed innocent and the right to be tried within a reasonable time were committed before the date of entry into force of the Protocol in relation to the Respondent State, that is, before 24 January 2004. He submits that in his

Application, he averred that these violations occurred continuously from July 1995 until 31 July 2005, when he was released from prison.

35. Furthermore, he submits that in his Application he raised the violation of his right to be tried within a reasonable time by an impartial court, but that the Court in its judgment assumed its temporal jurisdiction to rule on the right to be tried within a reasonable time, without ruling on his right to be tried by an impartial court, both rights guaranteed by the same Article 7(1)(d). The Applicant prays the Court to review its judgment of 2 December 2021 by taking cognisance of the lack of impartiality of the court which sentenced him to ten (10) years' imprisonment in 1995. He therefore prays the Court to erase and rectify the error it made when assessing its temporal jurisdiction[3] .

*

36. The Respondent State submits that the Application for review does not raise any new facts within the meaning of Article 28(3) of the Protocol and Rule 78(1) of the Rules. It further submits that the Applicant merely interprets the judgment of 2 December 2021, with a view to lead the Court to adopt his own perception of the facts contained in the initial Application.

* * *

37. The Court notes that new facts or evidence refer to "new discover(y)(ies)" which "were not known to the party bringing the case"[4] or of which that party "could not with due diligence have known" at the time of filing the initial Application[5] . 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,

[3] See paragraphs 11 and 12 of the Application for Review.
[4] *Alfred Agbesi Woyome v. Ghana*, ACtHPR, Application for Review No. 001/2020, Judgment of 26 June 2020 (Review) § 38; *Urban Mkandawire v Malawi* (Review and interpretation) (2014) 1 AfCLR 299 § 14.2.
[5] *Alfred Agbesi Woyome v. Ghana*, § 43.

regardless of its legal consequences. Consequently, a new fact must precede the delivery of the judgment on the merits.

38. In the present case, the Court notes that this first "new fact" matches its own analysis according to which, on the one hand, the above-mentioned violations took place between July 1995 and June 1996 (as stated in paragraph 33 of the Judgment), that is, before the entry into force of the Protocol in relation to the Respondent State, and, on the other hand, that these violations are not of a continuous nature, but are rather instantaneous.

39. The Court also notes that the Applicant describes the Court's analysis as an "*error*" because, in his view, the violations alleged are of a continuing nature and, consequently, the Court should have assumed its temporal jurisdiction and examined the alleged violation of his right to the presumption of innocence and to be tried by an impartial court.

40. It emerges from the present Application for review that the Applicant seeks exclusively to call into question the findings and analysis of the Court in the Judgment. In this connection, the Court observes that the Applicant's own assessment of the Court's findings on the grounds raised in the initial Application does not constitute a new fact within the meaning of Article 28 of the Protocol.

41. Accordingly, the Court finds that Applicant’s submission herein does not contain any new facts**.**

ii. Alleged new fact regarding the availability of a remedy against the decision of the Public Service Disciplinary Board

42. The Applicant presents as new evidence the Court's statement in paragraph 56[6] of the Judgment that he had an effective remedy against the decision of the Public Service Disciplinary Board which he should have exercised in order to claim to have exhausted local remedies.

43. He submits that, in rejecting his request for reinstatement in his post, the Public Service Disciplinary Board made no mention of any appeal against its decision. The Applicant further contends that when the Court stated in its judgment of 2 December 2021 that he had the avenue to bring an action for misuse of power before the administrative courts, it does not indicate to him to which administrative court he should have turned to have his right to work and to remuneration restored.

44. For the Applicant, the fact that the Court found in its judgment of 2 December 2021 that after twenty (20) years, three (3) months and ten (10) days, the Supreme Court had still not ruled on his appeal raises the question of the efficiency and effectiveness of the remedy in respect of abuse of power before the Respondent State's courts.

45. The Applicant therefore requests the Court to instruct him as to whether there is a judicial or administrative court or tribunal empowered to receive a remedy seeking to restore his right to work and to remuneration.

[6] Paragraph 56 of the Judgment of 2 December 2021 reads as follows: "With regard to the alleged violation of the right to work and remuneration, it appears from the documents in the case docket that on 4 October 2011, the Applicant petitioned the Civil Service Disciplinary Board, a body empowered by the Civil Service Statute of the Respondent State, to request his reinstatement in his position as Paymaster. After hearing the Applicant, the Judicial Officer of the Treasury and the Inspector General of the Treasury at its 30 March 2012 meeting, the Civil Service Disciplinary Board deliberated on 6 June 2012 and concluded that although the Applicant was not removed from the Civil Service, he would have to produce the ruling of the Supreme Court on his appeal before any final decision by the Board. The Court also noted that the Applicant had the possibility of appealing the decision of the Disciplinary Board to the administrative courts to exhaust domestic remedies".

*

46. The Respondent State contends that this particular aspect of the Application does not meet the requirement of a new fact justifying the admissibility of the Application for review. It submits that, in substance, the Applicant's allegations call into question the finality of the Judgment delivered on 2 December 2021 and prays the Court to dismiss the present Application.

* * *

47. The Court recalls that, in accordance with the provisions of Article 28(3) of the Protocol, the review procedure is without prejudice to Article 28(2) of the Protocol, such that such a procedure cannot be used to undermine the principle of the finality of judgments[7] , which are not subject to appeal[8] .

48. The Court recalls that the reasons for its decision cannot be considered as new facts or evidence warranting an application for review of its judgment.

49. In the present case, the Court notes that, here again, the Applicant misconstrues as new facts the grounds of its judgment of 2 December 2021, in which it held that, having failed to lodge an appeal on grounds of abuse of power against an administrative decision adversely affecting him, the Applicant did not exhaust the existing local remedies.

50. The Court considers that the finding in its judgment that the Applicant had the possibility of bringing an action for misuse of power before the administrative courts in order to claim to have exhausted local remedies is not a new fact within the meaning of Article 28(3) of the Protocol.

[7] *Alfred Agbesi Woyome v. Ghana*, ACtHPR, (review), op. cit. § 26. *Urban Mkandawire v Malawi* (Review and interpretation) (2014) 1 AFCLR 299 § 14.

[8] *Delta International Investments S.A. and others v. Republic of South Africa*, ACtHPR, Application No. 001/2012, Judgment of 15 March 2013 (appeal), § 6.

51. Therefore, the Court finds that the Applicant has not provided any new evidence to justify the review of its judgment.

iii. Allegation of a new fact in the determination of the duration of the domestic proceedings in relation to his landed property

52. The Applicant submits as new evidence the fact that in paragraph 58 of the Judgment of 2 December 2021, the Court determined the duration of local remedy that he pursued before the domestic courts seeking to recover his landed property, counting from the date on which the Applicant submitted his application, namely, 8 November 2017. He submits that it would have been normal to start counting from at least 12 October 2020, the day pleadings were closed.

53. Citing the case-law of the United Nations Human Rights Committee, the Applicant argues that if the Court had followed this international practice of computing time-limits, the duration of the domestic remedies, which it considers to be two (2) years and five (5) months respectively, and three (3) years, eleven (11) months and four (4) days[9] respectively, would have been six (6) years and four (4) months for one and five (5) years, eight (8) months and four (4) days for the other.

54. For the Applicant, the Court should review its judgment and come to the conclusion according to which the periods of six (6) years and four (4) months on the one hand and five (5) years, eight (8) months and four (4) days on the other are long enough. On that basis, the Applicant prays the Court to find his Application admissible. He further submits that once his initial Application is declared admissible for violation of his right of ownership over his immovable property, the Court should then rule that the Respondent State is holding his movable and immovable property wrongfully.

[9] In the Initial Judgment, the Court noted that it emerges from the records that the duration of the first case brought by the Applicant to claim his landed property was two (2) years five (5) months and twelve (12) days while that of the second case was three (3) years, eleven (11) months and four (4) days.

*

55. The Respondent State reiterates its argument that the application for review only illustrates the Applicant's understanding of the facts of his original application. The Respondent State invites the Court to dismiss the Applicant's request for review of the original Judgment for lack of new evidence.

* * *

56. The Court recalls its jurisprudence that an application for review must be based on material facts or circumstances that were not known at the time the judgment was delivered[10]. In this regard, the Court has pointed out that the evidence required under Rule 78(1) of the Rules is defined as the "demonstration of the existence of a fact", that is, an "event which occurred or took place"[11] outside the proceedings before the Court and which was not previously known to a party or parties[12] .

57. In this respect, the Court underscores that judgment review may be sought for exceptional reasons, such as those relating to documents whose existence was unknown at the time the judgment was delivered, to documentary or testimonial evidence or confessions in a final judgment and is later found to be false, or when there has been prevarication, bribery, violence, or fraud, and facts subsequently proven to be false, such as a person having been declared missing and found to be alive.[13]

[10] *Alfred Agbesi Woyome v. Ghana*, (Review), *op. cit.* § 38; *Ramadhani Issa Malengo v. Tanzania*, ACtHPR, Application for Review No. 001/2019, Judgment of 15 July 2020 (Review), § 31.
[11] Dictionnaire de Droit international public, Bruxelles, Bruylant, 2001, p. 493, cited in *Frank David Omary et autres c. Tanzanie* (Review) (2016) 1 AfCLR 383.
[12] *Urban Mkandawire v. Malawi* (Review and interpretation) *op. cit* § 14.2.
[13] IACtHR, *Genie Lacayo v. Nicaragua*, (Application for Judicial Review of the Judgment on the Merits, Reparations and Costs), IACHR, Series C No. 45, § 12.

58. In the present case, the Court notes that the application exclusively seeks to call into question the grounds of the judgment of 2 December 2021, which is final. In this connection, the Court reiterates, as it has already done above, that the application for review cannot be based either on the legal grounds of its judgment or on particulars underpinning its findings. Accordingly, the purpose of an application for review cannot be to re-examine the grounds of law or fact contained in the decision in respect of which a review is sought. In the present case, the Applicant's application is akin to an appeal against the judgment of 2 December 2021 since it exclusively seeks to challenge the Court's findings and the analysis underpinning its judgment, and for a rectification of what he describes as an error of assessment.

59. The Court further notes that the Applicant contends that the matters which he claims constitute new facts and errors are identified in the Judgment of 2 December 2021.

60. From the foregoing, the Court finds that there are no new facts relating to the admissibility of the allegation of violation of the Applicant's right to property.

iv. Allegation of a new fact in relation to the determination of the amount of reparation for material and moral damage

61. The Applicant submits that once the Court has drawn the consequences of the fact that the violations arising from the proceedings against him since 24 July 1995 are of a continuous nature, it should assume its temporal jurisdiction and find that his arrest, the forced cessation of his duties for twenty-six (26) years, the “destruction” of his career and his sentencing to ten (10) years' imprisonment were unlawful. He further submits that after such a finding, the Court should review its decision with regard to reparation for the material and moral damage he suffered and award him a substantial amount.

62. The Applicant further contends that if the Court in its Judgment recognises his wife and children as vicarious victims, it should award them reparation taking into account its jurisprudence on the matter. He refers to the amount awarded by the Court in Application *No. 013/2017: Sébastien Germain Ajavon v. Republic of Benin* and prays the Court to review its decision by re-evaluating the amount of reparation for non-pecuniary damage suffered by his wife and children to an amount higher than the amounts awarded to the wife and each of the children of Mr. Sébastien Germain Ajavon.

63. He further submits that the Court failed to take into account all the mental suffering he endured for more than twenty-six (26) years as a result of the violations of his rights as captured in paragraphs 435 and 486 of the initial application and therefore must award him fair reparation equivalent to the duration of his suffering and the gravity of the violations of his rights. He alleges that the moral suffering he endured during these twenty-six (26) years, of which more than ten were spent in prison, is heavier than those of Sébastien Germain Ajavon who was never in prison. For all these considerations, he requests the Court to review its judgment of 2 December 2021 and award him the amount of Three Billion (3,000,000,000) CFA francs as reparation for the moral damage he suffered.

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64. The Respondent State submits that there is no basis for the Applicant to rely on a situation that is supposedly comparable to his in order to request a review of the amount of reparation for the non-pecuniary damage that he and his family members allegedly suffered. It further contends that the Court should dismiss the Applicant's request as it does not rule by comparing similar situations.

* * *

65. The Court reiterates that for a decision to be reviewed, it must be established that at the time of rendering the decision, new facts have come to light of which the Court and the parties were unaware and which are of such a nature as to have a decisive influence on the decision already rendered. In the present case, the Applicant does not provide proof of any fact of which he was unaware and which would have been decisive in determining the amount of reparation for non-material damage suffered.

66. Furthermore, the Court notes that in the present Application for review, the Applicant, by virtue of all the particulars he relies on, is challenging the findings and orders of the Court in the Judgment entered on 2 December 2021. These particulars are therefore neither new facts nor new evidence within the meaning of Article 28(3) of the Protocol and Rule 78(2) of the Rules. The Court considers that the Applicant's comparison of the amounts awarded him to those awarded by the Court in another case does not constitute a new fact.

67. Accordingly, the Court declares inadmissible the Application for review.

VIII. COSTS

68. The Respondent State submits that the present Application for review, which was filed after the effective date of the withdrawal of its Declaration under Article 34(6) of the Protocol, constitutes abuse of process by the Applicant and requests the Court to order the Applicant to pay the costs of the proceedings.

69. The Applicant does not make any submission in respect of costs.

70. Under Rule 32(2) of the Rules, "Unless otherwise decided by the Court, each party shall bear its own costs, if any".

71. The Court notes that an application for review is a procedural right of the parties enshrined in Rule 78 of the Rules. In the instant case, the Court reiterates that the withdrawal of the Declaration has no effect on the Application for Review brought in relation to the initial Application of 8 November 2017. Accordingly, the Court holds that there is no abuse of process.

72. In conclusion, the Court finds no reason for it to depart from Rule 32(2) of the Rules and decides that each party shall bear its own costs.

IX. OPERATIVE PART

73. For these reasons,

The Court,

Unanimously

On jurisdiction,

i. *Dismisses the* objection to the Court's personal jurisdiction;
ii. *Declares* that it has jurisdiction;

Admissibility,

iii. *Finds* that the Application has identified the judgment of which a review is sought and was filed within the required time-limits;
iv. *Finds* that the challenges to the judgment of 2 December 2021 do not constitute new facts and that, therefore, no new evidence has been adduced.

v. *Declares* inadmissible the Application for review of the Court's judgment of 2 December 2021 delivered in Application No. 034/2017: *Kouadio Kobena Fory v. Republic of Côte d'Ivoire;*

Costs

vi. *Decides* that each Party shall bear its own costs.

Signed by:

Imani D. ABOUD, President;

Blaise TCHIKAYA, Vice President;

Ben KIOKO, Judge;

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Chafika BENSAOULA, Judge;

Stella I. ANUKAM, Judge;

Dumisa B. NTSEBEZA, Judge;

Modibo SACKO, Judge;

Dennis D. ADJEI, Judge;

And Robert ENO, Registrar.

Done at Arusha, this first day of December in the year two thousand and twenty-two, in English and French, the French text being authoritative.