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The Composed Ionfani D. ABOUMDI POE SIAKOT, Vice
President; BENT KIKO, BENAFACHOU Ruzanne MENGUE, Tuj
CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAY
NTSEBEZE Annis D-JuAdDjeEsl; and Robert ENO, Regist

In the Matter

GOHTAUDI AND OTHERS

represented by SCHADROCK, the Bar Rwanda

versus

REPUBLIC OF CÔTE D'IVOIRE

represented by

i. Mr DELBE Zirign Mangicou, the Attorney General
of the Republic of Côte d'Ivoire, Minister of Justice and Human
Rights; Mr MEITE Abdoulaye, the Attorney General of Côte d'Ivoire
represented by SAMASSI Mamadou, the Attorney General of Côte d'Ivoire
represented by GUEUR Padio, the Attorney General of Côte d'Ivoire
represented by KONE Mamadou, the Attorney General of Côte d'Ivoire

At the hearing on

Read the Judgment

I. THE PARTIES

1. Messrs **GosTaudier**, **Bamba Lamine** and **Coulibaly** referred to as the "Second Applicant", and **T** respectively as the "Respondent", are jointly and severally applicants in this case at the time of filing of this petition. They were arrested on 20th of February 2004 and held in prison for armed robbery at the **Abidjan Central Prison (MACAT)**. They allege violation of their fundamental rights and freedoms which they were sentenced by domestic courts.
2. The Applicant claims that the **Republic of Côte d'Ivoire** referred to as the "Respondent" is a party to the **Charter on Human Rights (African Charter)** of 1981, the **Protocol to the African Charter on Human and Peoples' Rights (African Human Rights Treaty)** of 1998, and the **Protocol to the African Charter on Human and Peoples' Rights (African Human Rights Treaty)** of 1998. On 15 January 2004, the Respondent accepted the jurisdiction of the **Commission on Human Rights** in Article 34(6) of the **Protocol to the African Charter on Human and Peoples' Rights** which accepted the jurisdiction of the **Commission on Human Rights** in Article 34(6) of the **Protocol to the African Charter on Human and Peoples' Rights** before the **African Commission on Human and Peoples' Rights**. On 15 January 2020, the Respondent State deposited with the **African Commission on Human and Peoples' Rights** the instrument of ratification of the **Protocol to the African Charter on Human and Peoples' Rights** which provided for the suspension of pending cases on new cases for a period of one (1) year from the date of its ratification.

¹ *Kouadio Kobena Fory'lw. v. République de Côte d'Ivoire* (No. 034/2011) African Human Rights Commission, Report of the Commission on Human and Peoples' Rights, 15 January 2011, paras. 1-4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 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996, 997, 998, 999, 1000.

III. SUBJECT APPLICATION

A. Facts of the

3. In the first instance, on the 27th March 2013, which was his home, Zerboua was visited by four (4) individuals who filed a complaint with the police. A summary of the case did not mention the fact that, following a meeting with the complainant, three telephone calls were made to the complainant from three telephone numbers. On 1st April, the complainant was identified by the complainant as a person who had made the anonymous telephone calls.
4. Following investigation conducted by one of the telephone companies, it was found that two other numbers were used by his nephew at the telephone.
5. Arrested by the police, the applicant admitted that he had used the mobile phones to contact Zerboua Siyere, for having been fired from his job as a member of the armed forces. He admitted to being involved in the attack on 27 March 2013, with the help of the applicant's wife and other members of the Republican Front. In addition to participating in the robbery, they were responsible for the firearms used in the robbery.
6. By judgment of 1st April 2013, the court found them guilty of armed robbery and sentenced them to two years (20) imprisonment. The Abidjan Court of Appeal confirmed this sentence. Believing that they were innocent of the robbery, an appeal was filed in court.

B. Alleged Violations

7. The Applicants allege violation of the
 - i. the right to a fair trial, of access to justice, protected (1)(a) of the Charter as by Article 10 of the Universal Declaration of Human Rights, the principle of proportionality of punishment, and the right to a fair trial, of access to justice, protected by Article 8 of the European Convention on Human Rights and Article 14 of the International Covenant on Civil and Political Rights
 - ii. the right to the protection of the family, of access to justice, protected by Article 16 of the Charter and 10(1) of the Covenant on Civil and Political Rights

II SUMMARY OF PROCEEDINGS BEFORE THE COURT

8. The three Applicants were registered by the Registrar on 23 April 2019.
9. By decision of 20 December 2019, the Court ordered the Respondent to provide the Applicants with the information requested in their applications.
10. On 3 January 2020, the Respondent was asked to provide the Applicants with the information requested in their applications.
11. On 3 March 2020, the Applicants requested the Respondent to provide the information requested in their applications.
12. The Applicants were notified on 28 October 2021 and the Respondent was notified.

I V. P R A Y E R S O F T H E P A R T I E S

13. The Applicant requests the Court to order the Respondent to take the following measures in order to remedy the situation:

- i. Payment of compensation;
- ii. Commutation of the respondent's (20) years of imprisonment to a sentence;
- iii. Conditional release;
- iv. Amicable settlement;
- v. Financial compensation for the respondent's due judicial decisions handed down.

14. The Respondent requests the Court to:

- i. Declare that it lacks jurisdiction;
- ii. Find that the applicant does not meet the admissibility criteria under Article 56(5) of the Charter;
- iii. Dismiss the applicant's requests.

V. J U R I S D I C T I O N

15. The Court notes that Article 3 of the Protocol provides:

1. The jurisdiction of the Court shall be limited to the cases referred to it concerning the interpretation of the Charter, this [...] Protocol, and any instrument ratified by the States concerned.
2. In the event of a dispute as to whether the Court shall decide,

16. According to Rule 49 of the Rules of Procedure and Examination of its jurisdiction [...] in the Protocol and these Rules.

17. Based on the above provisions in the Application, a preliminary finding of jurisdiction and rule in any.

18. The Court notes that, in the Respondent's State, it does not raise any jurisdictional issues. It is noted that Rule 49(1) of the Rules of the Court provides that material, personal, and territorial jurisdiction is established if the Respondent has acted in the territory of the Respondent. Having noted that, the Court considers that it has:

i. Material jurisdiction: The Applicants allege that their rights protected by the Charter of the Respondent State are violated.

ii. Personal jurisdiction: As already indicated, the Respondent State, in its instrument of withdrawal of the instrument, stated that the withdrawal of the instrument would have no effect until the instrument of withdrawal was filed before the Respondent State. The Applicants submitted that the Respondent State filed the instrument of withdrawal on 20th April 2021.

iii. Temporal jurisdiction: The violations alleged by the Applicants occurred after the Respondent State became a party to the Charter and the Protocol.

²The Respondent's ratification to the 1992 African Charter on Human and Peoples' Rights.

³*Kouadio Kobena v. République de Côte d'Ivoire*, Application No. 034/2017, December 2021 (merits), *Kouadio Kobena v. République de Côte d'Ivoire*, Application No. 015/2021, Judgment of 22 September 2021, § 24.

iv Territorial jurisdictional allegations
Applicants occurred in the territory
a Party to the Protocol that the Coast
jurisdiction.

19. In light of the fact that the
presentation

VI. ADMISSIBILITY

20. Under Article 6 (2) of the
admissibility of applications taking in
Article 56 of the Charter

21. Rule 50 (1) of the Rules shall as
admissibility of an Application filed by
of the Charter, Article 6 (2) of the Pro

22. Rule 50 (2) of the Rules, which
56 of the Charter, provides:

Applications filed with the following
conditions:

- a. Indicate their authors even if the
- b. Are compatible with the Constitutive
with the Charter;
- c. Are not written in disparaging or
against the State concerned and its
Union;
- d. Are not based exclusively on
mass media;
- e. Are sent after exhausting local re
obvious that this procedure is undu

f. Are submitted within a reasonable period of time after the remedies were exhausted or the date of the commencement of the time period during which the applicant was seised with the matter; and

g. Do not deal with cases which have been previously considered in accordance with the provisions of the United Nations Commission on Human Rights Act of Africa or the provisions of the Charter.

23. The Court notes that the Respondent's application for leave to appeal is subject to the requirements, if necessary.

A. Objected to on grounds of exhaustion of remedies

24. The Respondent's application for leave to appeal implies that the remedies sought were not exhausted in the domestic legal system of the State, and that the applicant has exhausted all available remedies in the domestic legal system of the State. The Respondent's application for leave to appeal is subject to the requirements, if necessary.

25. The Respondent's application for leave to appeal implies that the remedies sought were not exhausted in the domestic legal system of the State, and that the applicant has exhausted all available remedies in the domestic legal system of the State. The Respondent's application for leave to appeal is subject to the requirements, if necessary.

*

26. The Applicants, for the reasons stated, did not appeal to the Court of Cassation.

The Applicants do not expect to refer to appeal to the Court of Cassation due to the fact that they were also not aware of the existence of the remedy they were also not aware of the existence of the remedy who could have initiated the proceedings before the domestic courts

27. The Applicants submit that if they had appealed to the Court of Cassation, this remedy would not have been an extraordinary remedy.

* **

28. The Court recalls that under Article 56 of the Constitution, which reads: "The Court of Cassation is the highest judicial authority in the Republic of Albania. It is the final instance of appeal in civil, criminal and administrative cases." The Court notes that the Applicants did not appeal to the Court of Cassation.

29. The Court emphasizes that the local remedies available to the Applicants were not exhausted. The Applicants did not appeal to the Court of Cassation. The Court notes that the Applicants did not appeal to the Court of Cassation.

30. The Court further notes that the Applicants did not appeal to the Court of Cassation. The Court notes that the Applicants did not appeal to the Court of Cassation.

⁴ *Lohé Kosnaté v. Bunkri* (Application No. 28054/14), paras 103-104; *Marie Ajavon v. Republic of Albania* (Application No. 27020/17), paras 103-104 (jurisdiction and admissibility), § 73.

⁵ *Kijiji Isiriye v. Republic of Albania* (Application No. 28014/18), paras 103-104; *Commission on Human Rights v. Republic of Albania* (Application No. 28014/18), paras 103-104 (May 2017), paras 9-10.

31. Further more, what is consistent with the examining requirements is that it takes account of the circumstances. Thus, he takes a historic manner not only to the air and the legal system of Respondent State but also the liability for the availability, the effectiveness of the personal application of the

32. In this case, the Court notes that the Applicant did not exhaust existing remedies. It is not a fact that the Applicant's attorney advised them that they themselves were unaware of the existence of the way, is an ineffective extraordinary

33. The Court observes that the Applicant's appeal to the Abidjan District Court is a public possession of the land, and the Court has found that the twenty (20) years of possession is not sufficient.

34. The Court has also noted that the Applicant's appeal to the Court is a public possession of the land, and the Court has found that the twenty (20) years of possession is not sufficient.

35. Similarly, the Court considers that the Applicant they were unaware of the existence of the

36. As regards the extraordinary remedy, the Court notes that the Respondent's existing available legal remedies that can be exercised

⁶ Sébastien A. J. G. v. République de Côte d'Ivoire (2019) 3 M.A.F.C.L.R. 11310

courts, the courts should have had the highest authority. Thus, the cassation appeal is not as claimed by the Applicants.

37. As regards effectiveness of the Courts' decisions, it has previously been held that the Courts' decisions are binding on the lower courts. In the legal system of the Republic, the cassation remedy seeks a final ruling of the Court on law, where the lower court has sanctioned a violation of the law. The decisions of the Supreme Court are binding on the lower courts and may be appealed to the Court. Consequently, it is not possible to find an effective remedy that the Applicants should have.

38. The Court finds that the Respondent's conduct concerning the same legal issues is not different from that in the cassation appeal. It is effective and satisfactory for every Applicant if required to exhaust the local remedies.

39. In view of the above, the Respondent's conduct is not different from that in the previous cases. The Applicants' claims are not different from those in the previous cases. The Respondent's conduct is not different from that in the previous cases. The Applicants' claims are not different from those in the previous cases.

⁷Article 1 of the Law No. 11 of 1961 on judicial organization of 6 July 1999

⁸*Norberta Zon v. the Burkina Faso* (28 March 2004) 1 AfCLR

⁹Articles 28 and 33 of the Law No. 17 of 1997 on the organization, attributions and functions of the jurisdiction, organization, attributions and functions

¹⁰*Woyome v. (Chaintas and reparations)* 35, 62 Zon v. the Burkina Faso

¹¹*Zon v. the Burkina Faso* 35, 62 Zon v. the Burkina Faso

B. Other admissible interventions

40. The Court recalls that in *Amintaru v. Romania*,¹² it held that cumulative submissions, if they are not made at the same time, become inadmissible.

41. The Court notes that having exhausted local remedies, there is no need to rule on admissibility.

42. Accordingly, the Court finds that the admissibility requirements set out in Article 35 of the Convention are satisfied and the application is admissible.

VI. COSTS

43. The Parties did not submit on costs.

* * *

44. The Court recalls Article 41 of the Convention, which provides that if the Court finds that there has been a violation of the Convention, it shall, if the circumstances so require, make such just satisfaction as to the injured party as may be required.

45. The Court notes that the Parties have not submitted any evidence on costs. Accordingly, the Court finds that the Parties are to bear their own costs.

¹² *Aminata Soumaré v. France*, App. No. 53820/09, Judgment of 20 October 2010 (jurisdiction), *Yanco v. Bulgaria*, App. No. 30771/02, Judgment of 20 September 2011 (jurisdiction), *Miaou v. Greece*, App. No. 21377/03, Judgment of 20 October 2010 (jurisdiction), *Ousmane Diabaté v. France*, App. No. 21377/03, Judgment of 20 October 2010 (jurisdiction), *Chrysanthe v. Romania*, App. No. 30771/02, Judgment of 20 September 2011 (jurisdiction).

