

TANZANIA / JUDGMENT

fory and others v republic of cote d'ivoire

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AFRICAN UNION UNION AFRICAINE UNIAO AFRICANA AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES THE MATTER OF KOUADIO KOBENA FORY, SPOUSE, SONS AND DAUGHTERS V. REPUBLIC OF COTE D'IVOIRE APPLICATION NO. 034 /2017

RULING

(CHANGE OF TITLE OF APPLICATION) 25 NOVEMBER 2021 ~', ~- ' --: . ,. :} .) i . // ;? The Court, composed of Imani D. ABOUD, President, Blaise TCHIKAYA, Vice- President, Ben KIOKO, Rafaa BEN ACHOUR, Suzanne MENGUE, M-Therese MUKAMULISA, Tujilane R. CHIZUMILA, Chafika BENSOUOLA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Modibo SACKO - Judges; and Robert ENO. Registrar In the Matter of KOUADIO Kobena Fory, spouse, son and daughters Self-represented Versus REPUBLIC OF COTE D'IVOIRE Represented by: Ms LY Sangare, Nee Kadiatou, Judicial Officer of the Treasury After deliberation, renders the following Order: I. THE PARTIES

1. Mr Kouadio Kobena Fory, self-represented and declaring to act on behalf of his wife Jeanne Yavo and his three (3) children Jean-Eudes Wilfried, Akoua Merveille Laetitia and Linda De-la-Sainte Face, (hereinafter, referred to as "the Applicants" is a national of Cote d' Ivoire, as are those he represents.
2. The Application is filed against the Republic of Cote 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 to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and 1 Peoples' Rights (hereinafter referred to as "the Protocol") on 25 January 2004. On 23 July 2013, the Respondent State deposited the Declaration provided for in Article 34(6) of the Protocol by virtue of which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations having observer status with the African Commission on Human and Peoples' Rights. On 29 April 2020, the Respondent State deposited with the African Union Commission an instrument of withdrawal of its Declaration. The Court has ruled that this withdrawal has no bearing on pending cases and on new cases filed before the entry into force of the withdrawal one year

after its deposit, that is, on 30 April 2021 .1 II. SUBJECT OF THE APPLICATION A. Facts of the matter

3. The Applicant alleges that, in 1995, he was arrested, convicted and sentenced to ten (10) years in prison, payment of a fine and damages to the Respondent State for acts of embezzlement of public funds. One week after his release from prison in 2005, he was re-arrested and held without trial until his release in 2011.
4. Believing that his fundamental rights and those of his wife and children were violated by the Respondent State, the Applicant, acting on his own behalf and on behalf of his wife and three children, filed this Application with the Court on 8 November 2017. B. Alleged violations
5. The Applicant alleges that the Respondent State violated his rights to a fair trial , to physical and moral integrity, to freedom of opinion as well as his right to 1Suy Bi Gohore Emile and others v. Republic of C6te d'Ivoire, ACtHPR, Application No. 044/2019, Judgement of 15 July 2020 (Merits and Reparations), § 67; lngabire Victoire Umuhoza v. Republic of Rwanda, (Jurisdiction) (3 June 2016) 1 AfCLR 540 § 69. 2 property. He further alleges that his right as well as that of his wife to work and to adequate remuneration were violated and that the double detention violated his right to protection of the right to a family for his wife and children. Ill. SUMMARY OF THE PROCEDURE BEFORE THE COURT
6. The initial Application was received by the Registry on 8 November 2017. On 8 May 2018, the Applicant, at his own initiative, filed additional submissions to his Application.
7. On 2 July 2018, the Application and the additional submissions were served on the Respondent State.
8. On 12 October 2021, pleadings were closed and the parties were duly informed. IV. CHANGE OF TITLE OF APPLICATION
9. The Respondent State avers that while the standing of Kouadio Kobena Fory, the alleged direct victim of human rights violations, does not pose a problem, the same is not true for his wife Jeanne Yavo, son Jean-Eudes Wilfried and daughters Akoua Merveille Laetitia and Linda De-la-Sainte Face who obviously do not have standing as Applicants. It contends that the family members on whose behalf the Applicant claims to be acting are all of legal age and have the ability to bring a case directly before the Court.

* * *

10. The Court recalls its previous jurisprudence that "neither the Charter, nor the Protocol, nor the Rules require that the Applicant and the victim have to be the 3 same,"² and that any person who can sue can do so on his or her own behalf and/or on behalf of others if they obtain the consent or authorization of the persons on behalf of whom they are acting.

11. In this case, the Court notes that the Applicant submits that the alleged violations of the rights of his wife and his children are closely related to his legal predicament since his double arrest and his detention. It can be inferred that the Applicant's wife and children are indirect or vicarious victims and are therefore not considered as Applicants in this case.
 12. In light of the foregoing, the Court finds that Mr Kouadio Kobena Fory is the only Applicant in the instant case and declares the objection of the Respondent State to be founded.
 13. The Court, having thus concluded, considers it necessary to amend the title of Application No. 034/2017: Kouadio Kobena Fory, spouse, son and daughters
 - v. Republic of Cote d'Ivoire and retain the identity of the sole Applicant Kouadio Kobena Fory.
- V. OPERATIVE PART
14. For these reasons, THE COURT, Unanimously,
 - i. Finds that Kouadio Kobena Fory is the sole Applicant in the instant case; ii. Orders that the title of the Application "N°034/2017: Kouadio Kobena Fory, spouse, son and daughters v. Republic of Cote d'Ivoire» shall be amended to read as follows: « N°034/2017: Kouadio Kobena Fory v. Republic of Cote d'Ivoire» ; 2 Sebastien Germain Ajavon v. Republic of Benin, ACtHPR, Application No. 062/2019, Judgment (Merits) (4 December 2020), § 58. 4 Signed: Imani D. ABOUD, President; and Robert ENO, Registrar. Done in Dar Es-Salam, this Twenty-Fifth Day of November in the year Two Thousand and Twenty-One, in English and French, the French text being authoritative. 5

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