IN THE COURT OF JUSTICE OF THE ECONOMIC COMMUNITY

OF THE WEST AFRICAN STATES (ECOWAS)

In the Matter of

MAMADOU ALPHA BAH

V.

THE REPUBLIC OF GUINEA

Application No. ECW/CCJ/APP/34/24

Judgment No. ECW/CCJ/JUD/08/26

JUDGMENT

ABUJA

February 20, 2026

APPLICATION No. ECW/CCJ/APP/34/24

JUDGMENT No. ECW/CCJ/JUD/08/26

BETWEEN

MAMADOU ALPHA BAH APPLICANT

AND

THE REPUBLIC OF GUINEA RESPONDENT

COMPOSITION OF THE COURT PANEL

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

Hon. Justice Gberi-Be OUATTARA - Member

Hon. Justice Edward Amoako ASANTE - Member

ASSISTED BY

Marie Saine - Registrar

REPRESENTATION OF THE PARTIES

Maitres Thierno Souleymane Barry and Mamadou Saidou Sow - Counsel for the Applicant

L'Agent Judiciaire de l'Etat - Counsel for Respondent

I. JUDGMENT

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

II. IDENTIFICATION OF PARTIES

2. The Applicant is Mr. Mamadou Alpha Bah, born in 1977 in Mamou, resident in the district of Almamya, urban district of Mamou, of Guinean nationality.
3. The Respondent is the Federal Republic of Guinea, a member of the Economic Community of West African States (ECOWAS) and a signatory to the African Charter on Human and Peoples' Rights, hereinafter referred to as the African Charter.

III. INTRODUCTION

4. In the instant case, the Applicant came to claim a violation of his human rights because, on June 27, 2000, following the announcement of the results of the 2000 municipal elections at the facilities of the Mamou Municipal Council, he was hit by a stray bullet fired by members of the army. As a result of this incident, he suffered a fracture to his right leg and was immediately admitted to the emergency ward of the Mamou Municipal Council Hospital.
5. Following these events, the Applicant filed a lawsuit against the Respondent; however, the Kaloum Court of First Instance dismissed the case on the grounds of time bar and ordered the Applicant to pay the

sum of 500,000 Guinean francs (GF) in compensation to the Ministry of National Defense.

6. Subsequently, in 2020, the Applicant filed a new lawsuit against the Respondent.

IV. PROCEEDINGS BEFORE THE COURT

7. The application initiating proceedings (doc. 1), gathered with eleven (11) documents, was filed at the Registry of this Court on December 23, 2024.
8. The Respondent, on who the originating application was duly served on December 22, 2024, filed its defense (doc. 2) on February 4, 2025, which was served on the Applicant on the same date.
9. On February 27, 2025, the Applicant submitted his reply (doc. 3), which was served on the Respondent on February 28, 2025, and the latter said nothing.
10. The hearing of the parties was scheduled for May 15, 2025, at which both parties were duly represented. They were heard and they made their oral submissions.
11. The case was adjourned for judgment on 20th February 2026.

V. THE APPLICANT'S CASE

a) Summary of Facts

12. The Applicant claims that on June 27, 2000, at 10 p.m., during the announcement of the results of the 2000 local elections, on the facilities of the Mamou Municipal Council, he was hit by a stray bullet fired by members of the army.

13. As a direct result of that shot, the Applicant suffered a fracture to his right leg and was admitted that same day to the emergency ward of the Mamou Municipal Council hospital, where he incurred heavy medical bills.

14. Given the lack of material and technical resources at the hospital to provide adequate treatment, the Applicant was subsequently transferred and admitted to the Agence Nationale d'Aménagement des Infrastructures Minières (ANAIM) hospital in Boké.

15. The injuries suffered by the Applicant resulted from shots fired by the army, a fact clearly and convincingly proven by the medical certificate dated May 14, 2002, the results of the X-ray dated July 5, 2000, and the visit report of the same date, all issued by the ANAIM hospital in Boké (Exhibits 1 to 3).

16. In addition, the photograph taken when the Applicant was hospitalized, as well as the extract from the newspaper L'ENQUÊTEUR, No. 107, for the period from July 20 to August 3, 2006, also constitute relevant and convincing evidence (Exhibits 4 and 5).

17. In fact, the Applicant's visitors' book, dated July 5, 2000, prepared at the Kamsar ANAIM hospital in Boké, expressly states the following: *"Trauma to his right leg caused by a stray bullet during the last local elections."*

18. Since April 2000, the Applicant has undergone numerous medical checks, as well as successive costly journeys between Mamou and Kamsar, incurring significant expenses in order to recover his leg.

19. The army's actions caused the Applicant serious material, moral and, above all, financial damage.

20. Following this violation of his rights, the Applicant took legal action against the Respondent, as is clear from the writ of summons dated May

30, 2003, issued by Maître Basékou Shek Condé, huissier de justice of Conakry (Exhibit 6).

21. As a result of this summons, the Kaloum Court of First Instance issued Judgment No. 84 on May 13, 2010, seven (7) years after the date the case was filed, the operative part of which is as follows:

"Public and adversarial proceedings judgment in civil matters and at first instance;

Declares the proceedings brought by Mamadou Alpha BAH be time-barred due to failure by the plaintiff to reopen the case for seven (7) full and consecutive years;

Accepts the counterclaim of Ministry of National Defense, represented by AJE;

Mamadou Alpha BAH is hereby ordered to pay GF500,000 in damages;

Mr. Mamadou Alpha BAH is ordered to pay the costs;

Under the terms of articles 11, 497, 498 et seq. and 741 of the CPCEA." (Exhibit 7)

22. In that decision, instead of the Respondent being condemned, it was the Applicant who was condemned.

23. Subsequently, in 2020, the Applicant filed a new lawsuit against the Respondent.

24. The summons dated March 13, 2020, issued by *Maître* Mamadou Aliou Baldé, bailiff in Conakry, is ample proof of this.

(Exhibit 8)

b) Pleas in Law

25. The Applicant relied on Articles:

i. 5 of Law No. 019 of 13 August 2015 on the organization of the judicial system of the Respondent

ii. 4 and 7 of the African Charter.

iii. 3 of the Universal Declaration of Human Rights (UDHR).

c) Reliefs Sought

26. The Applicant concluded by seeking from the Court;

With regards to the form to:

i. Declare the competence of this Court and the admissibility of this action;

On the merits to:

ii. Declare that the actions of the agents of the Respondent's defense forces (on June 27, 2000, at 10 p.m., on the occasion of the proclamation of the results of the municipal elections of 2000 in the Municipality of Mamou, on the person of the Applicant), constitute an attack on his physical integrity, in violation of the provisions of the UDHR, the African Charter and the ICCPR.

Accordingly,

iii. To declare and judge that the Respondent is responsible for the human rights violations that affect the physical integrity of the Applicant.

iv. To order the Respondent to pay the Applicant the sum of eight billion Guinean francs (8,000,000,000 GNF) as reparation for the violations.

v. To order the Respondent to pay all the costs.

VI. THE RESPONDENT'S CASE

a) Summary of Facts

In limine Litis

On the inadmissibility of the Applicant's application on the grounds of res judicata

27. The Applicant himself acknowledges that, in relation to the same facts, he brought an action before the Kaloum Court of First Instance, which resulted in Judgment No. 84 of May 13, 2010, which declared the action time-barred and ordered him to pay the sum of GNF 500,000 in damages.

28. This judgment could be appealed under the terms of Article 606 of the Guinean Code of Civil, Economic and Administrative Procedure (CPCEA).

29. Nevertheless, the Applicant chose, according to his own statements, to start a new case, in relation to which he was unable to demonstrate that he had taken any procedural steps to ensure that it was properly registered and processed, namely in terms of registering the case, scheduling a hearing or having his representative take the legally required procedural measures.

30. In fact, there is no evidence that this second action has been duly registered, that the case has been heard or that the procedural acts necessary for its consideration by the competent court have been carried out.

31. In these circumstances, and by virtue of the authority of res judicata, the Applicant's application must be declared inadmissible in the present proceedings.

Subsidiary

Rejection of the Applicant's pleas

- Alleged violation of Article 3 of the UDHR

32. Understanding the right to life as the right to exist and not to be arbitrarily deprived of life, and freedom as the power to perform all acts that do not harm others, including, in particular, the possibility to do everything that is not prohibited and not to do what is not legally imposed, it can be seen in this case that the Respondent did not attempt to harm the Applicant's life, nor did it prevent him from remaining alive.

33. In fact, the Applicant is alive, as is clear from the filing of this lawsuit, and there is no evidence of any fact that could lead the Respondent to deprive him of his life.

34. Furthermore, the Applicant does not specify how or by what means the Respondent would have violated his right to life or liberty, especially since he does not claim any concrete impediment to the exercise of his personal liberty that is attributable to the Respondent.

35. Thus, the invocation of these grounds is devoid of factual support, having been made without demonstrating facts that could constitute an actual violation of these rights.

36. Similarly, there was no evidence that the Applicant's right to personal security was violated by the Respondent, since it never arrested or detained him, nor deprived him in any way of the right to move freely.

- **On the alleged violation of the provisions of Articles 7 and 4 of the African Charter and 5 of Law 019 of 13 August 2015 on the judicial organization in the Respondent**

37. The Applicant limits himself to invoking the violation of the articles he mentions, without, however, concretizing it by indicating specific facts or acts, stating generically that "*the Guinean State has, through the actions of its agents, caused blows and injuries to the person of the victim, leading to his paralysis...*", sustaining this allegation solely on the fact that he was hit by an alleged stray bullet fired by the Guinean army.

38. However, although medical certificate no. 126/DR.TIB/mf/2002, dated May 14, 2002, issued by Dr. Thierno I. Barry, an orthopaedic surgeon at Kamsar Hospital, states that the Applicant "*was admitted as an emergency on 05/07/2000 for a fracture of the right internal tibial plateau caused by a firearm which had occurred eight days earlier...*", there is no evidence in the case file to show, on the one hand, that the weapon in question belonged to the Guinean army or, on the other, that the projectile was fired from a military weapon.

39. Furthermore, the aforementioned certificate does not identify the nature of the weapon used or the projectile extracted. It could be an ordinary firearm, such as a shotgun, but there is no mention of any military weapon.

40. In other words, there is no evidence in the case file to establish that the bullet allegedly fired at the Applicant came from a weapon belonging to the army, and there is no objective and proven link between the extracted projectiles and a weapon belonging to the armed forces. Filing a complaint with the Public Prosecutor's Office of the Mamou Court of First Instance could, in theory, have made it possible to identify the nature of the weapon and the projectile and, possibly, to establish their origin, which was not the case in this instance.

41. This conclusion is reinforced by the fact that there is no evidence in the case file to support the Applicant's allegation, including the press article

he enclosed, which merely refers to the summons and its content, without mentioning any investigation. In fact, there are no investigation reports, diligence reports or any documents from the police authorities, the gendarmerie or human rights organizations in the case file that confirm the opening of an investigation or the investigation of the alleged facts.

42. Furthermore, given the content of the aforementioned medical certificate, the hypothesis that this was a single stray bullet, allegedly fired by the army, is even more questionable, since the document mentions the "*removal of projectiles*", in the plural. This circumstance indicates that the Applicant was hit by several projectiles and not by a single shot, which is incompatible with the allegation of a stray bullet and more consistent with the use of a 12-gauge shotgun, given that no burst of gunfire was mentioned.

43. The contradiction between the claim that it was a stray bullet and the medical evidence pointing to the presence of several projectiles casts serious doubt on the real origin of the injuries and the circumstances in which they occurred.

44. In any event, the evidence in the case file does not make it possible to establish any causal link between the projectiles extracted, the weapon from which they were fired and the possible belonging of that weapon to the Guinean army, nor between those facts and the damage complained of by the Applicant. The attempt to impute these facts to the Guinean army thus lacks a factual and evidential basis and is merely speculative, which makes the action brought against the Respondent manifestly unfounded.

45. With regard to the alleged violation of Law No. 019 of August 13, 2013, on the organization of the judiciary in the Republic of Guinea, according to which "*judicial decisions must be rendered within a*

reasonable time", the originating application does not clarify in what specific way this right would have been violated.

46. On the contrary, the judgment gathered by the Applicant himself unequivocally demonstrates that the delay was due to his lack of diligence over more than seven (7) years, a circumstance expressly sanctioned by that judgment. With regard to the lawsuit filed in 2020, there is also no evidence that the Applicant took any procedural steps to obtain a court decision, namely with regard to registering the lawsuit, paying the due costs, submitting allegations, scheduling a hearing or carrying out other necessary procedural acts.

Alleged violation of Article 7 of the ICCPR

47. The Applicant's invocation of the legal provision on the prohibition of torture and inhuman or degrading treatment or punishment is manifestly misplaced in the context of the present case, since the Applicant has neither alleged nor demonstrated that he was the victim of acts of torture or inhuman or degrading treatment or punishment, let alone that attributable to the Respondent.

48. In fact, there is no link between the facts alleged by the Applicant and the aforementioned legal provision, and the Applicant has failed to demonstrate, by any means, its applicability to the instant case.

b) Pleas in Law

49. In support of its case, the Respondent cited the same articles that the Applicant mentioned above.

c) Reliefs Sought

50. The Respondent prays the Court to:

In limine litis

i. Declare the Applicant's application inadmissible and refer it to new proceedings

Subsidiarily,

ii. Declare that the Respondent did not violate the Applicant's rights to life, liberty and security;

iii. Declare, furthermore, that the rights to the inviolability of his person, to respect for his life and to the physical and moral integrity of his person, as well as to have his case heard or the right to be tried within a reasonable time, have not been violated by the Respondent;

iv. Declare that the Respondent has never subjected the Applicant to torture or inhuman or degrading treatment or punishment, or to any medical or scientific experiment without his free consent;

v. Declare, therefore, that the Respondent did not violate the human rights of the Applicant;

vi. Declare the above-mentioned claim for damages unfounded;

vii. Order the Applicant to pay the costs of the proceedings.

VII. ON THE JURISDICTION

51. The Court observes that the Respondent invoked the res judicata exception, a fact which, in its view, prevents the Court from assessing the claim and its admissibility.

The Court's Analysis

52. Before assessing the objection raised by the Respondent, it is important to verify whether it was raised in accordance with the provisions of the Rules of Court.

53. Article 87 of the Rules of the Court on preliminary objections before the Court provides as follows:

"1. A party applying to the Court for a decision on a preliminary objection or other preliminary plea not going to the substance of the case shall make the application by a separate document. 2. The application must state the pleas of fact and law relied on and the form of order sought by the applicant and any supporting documents must be annexed to it."

54. It follows from this provision that any preliminary objection lodged with the Court must be made by means of an autonomous application, separate from the pleading in which the substantive issues are discussed, thus allowing the Court to assess and decide them separately.

55. In the instant case, it can be seen that the Respondent's preliminary objection was not presented in a separate application, as required by Article 87(1) of the Court Rules, but was instead included in the body of the defense.

56. The Court is bound by the provisions of its Rules of Procedure, which guide litigants on how to submit pleadings and the procedures to be followed. Thus, an application that does not comply with the applicable procedural rules runs the risk of being rejected (see *MAHAMANE OUSMANE v. REPUBLIC OF NIGER, ECW/CCJ/JUD/26/22*, ECW/CCJ/JUD/26/22, paragraph 47).

57. Similarly, the Court's case law has consistently held that the provisions of the Protocol and the Rules of Court are clear and unambiguous and must be strictly complied with by the parties (see *VISION KAM-JAY INVESTMENT LIMITED v. PRESIDENT OF THE ECOWAS COMMISSION*, ECW/CCJ/JUD/26/22, p. 9).

58. Therefore, since the Respondent has not complied with the Rules of the Court regarding the manner in which a preliminary objection must be

submitted, the Court decides that it will not proceed to examine the Respondent's preliminary objection.

59. Accordingly, the preliminary objection raised by the Respondent is dismissed.

60. In addition to the exception analyzed, this Court must also verify whether it has the necessary jurisdiction to hear a claim that has its origin in facts that occurred on June 27, 2000. The determination of jurisdiction is an absolute procedural prerequisite that precedes any analysis of the merits and, in this case, the time limits of this Court's mandate constitute insurmountable legal barriers.

61. With regard to temporal jurisdiction, the decision in *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA v. FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/15/24* clarifies that this Court's jurisdiction in human rights matters was conferred by Supplementary Protocol A/SP.1/05 of 2005, which entered into force provisionally on January 19, 2005. In that judgment, the Court established that Article 28 of the Vienna Convention on the Law of Treaties enshrines the principle of non-retroactivity, stating that the provisions of a treaty do not bind a party in relation to facts prior to its entry into force. Thus, this Court's jurisdiction "only covers events that occurred after January 19, 2005".

62. The incident that killed the Applicant took place in June 2000, when this Court did not yet have the mandate to try human rights violations. The case law in *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA v. FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/15/24*, establishes that, in order to determine jurisdiction *ratione temporis*, it is necessary to distinguish between "instantaneous" and "continuous"acts. Citing Article 14 of the International Law Commission's Draft on State Responsibility, the

Court stressed that a violation by an act that is not continuous occurs at the moment the act is carried out, "even if its effects last".

63. In the instant case, the firing of a stray bullet at the Applicant in 2000 constitutes an instantaneous act that "exhausted itself in its commission" long before jurisdiction was granted to this Court in 2005. As decided in the case of *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA v. FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/15/24* with regard to facts from 1986 to 1999, this Court must consider itself not to have jurisdiction *ratione temporis* when the cause of action demonstrates precisely when the interference occurred in the past, and does not result in a situation of continuous violation. It is reiterated that, according to the case *LES AYANTS DROIT DE FEU MAHI ZADI RENE V. REPUBLIC OF CÔTE D'IVOIRE ECW/CCJ/JUD/44/25*, an act does not acquire a continuous character merely because its physical or economic consequences extend over time.

64. This Court, as reiterated in *FEDERATION OF AFRICAN JOURNALISTS AND 4 ORS V. THE REPUBLIC OF THE GAMBIA ECW/CCJ/JUD/04/18*, is strictly bound by time limits, the only exception being a "gross violation of a continuous nature", which is not the case in an isolated shooting incident that occurred twenty-four years ago. In situations of continued unlawful conduct, the time limit would only run after the conduct ceased, but in instantaneous acts, such as the one analyzed here, the time limit is counted from the date of the fact.

65. In view of the above, this Court declares that it has no jurisdiction to hear the case, since the event of June 27, 2000 falls outside the limits of its temporal jurisdiction.

VIII. COSTS

66. The Applicant sought that the Respondent be ordered to pay the costs.

67. The Respondent sought that the Applicant be ordered to pay the costs.

68. Article 66 (1) of the Rules of the Court establishes that "*A decision as to costs shall be given in the final judgment or in the order, which closes the proceedings.*"

69. Paragraph 2 of the same article states that "*The unsuccessful party shall be ordered to pay the costs, if so decided.*"

70. Therefore, considering the circumstances of the case, the Court finds that the parties should bear their respective costs.

IX. OPERATIVE CLAUSE

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

With regards to the form:

i. Declares that it doesn't have jurisdiction to hear the case.

X. ON COSTS:

72. The parties shall bear their own costs of the proceedings.

Signature:

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

Hon. Justice Gberi-Be OUATTARA – Member

Hon. Justice Edward Amoako ASANTE - Member

Marie Saine - Registrar

Done in Abuja on 20th February 2026, in Portuguese and translated into English and French.