

COMMUNITY COURT OF JUSTICE,
ECOWAS

COUR DE JUSTICE DE LA COMMUNATE,
CEDEAO

TRIBUNAL DE JUSTICA DA COMUNIDADE,
CEDEAO



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

Holden at Abuja, Nigeria

On Wednesday, the 30th day of October 2019

**Suit No. ECW/CCJ/APP/19/17
Judgment No. ECW/CCJ/JUG/31/19**

BETWEEN

Hama Amadou

Assisted by Maître Francois Serres and

Maître Mike Bul (Lawyers registered respectively with the
Bar Association of Paris and Niamey)

APPLICANT

AND

Republic of Niger

Represented by Secretary General of the Government

Defence Counsel: Maître Moussa Coulibaly (Barrister-at-Law)

DEFENDANT

BEFORE THEIR LORDSHIPS

- 1. Hon. Justice Edward Amoako Asante**
- 2. Hon. Justice Gberi-Bé Ouattara**
- 3. Hon. Justice Keikura Bangura**

Presiding
Member
Member

Assisted By: Maître Athanase Atannon

Registrar

Delivers the following Judgment:

THE COURT,

- Having regard to the 24 July 1993 Revised Treaty establishing the Economic Community of West African States (ECOWAS);
- Having regard to the 6 July 1991 and the 19 January 2005 Protocols on the ECOWAS Court of Justice;
- Having regard to the 3 June 2002 Rules of Procedure of Procedure of the Court;
- Having regard to the 10 December 1948 Universal Declaration of Human Rights (UDHR);
- Having regard to the 27 June 1981 African Charter on Human and Peoples' Rights (ACHPR);
- Having regard to the International Covenant on Civil and Political Rights (ICCPR);
- Having regard to the Initiating Application of the above-cited Applicant, received at the Registry of the Court on 5 April 2017;
- Having regard to the Defence of the Republic of Niger received at the Registry of the Court on 28 June 2017;
- Having regard to the Reply of the Applicant received on 1 August 2017;
- Having regard to the Rejoinder of the Defendant received at the Registry of the Court on 22 November 2017;
- Having heard each Party through their respective Counsel; and
- Upon deliberation in accordance with the law;

FACTS AND PROCEDURE

1. By Application received at the Registry of the Court on 5 April 2017, Hama Amadou filed a case before the Community Court of Justice, ECOWAS asking the Court to:

- Declare that the Republic of Niger violated Article 9 of the International Covenant on Civil and Political Rights (ICCPR) and Article 6 of the African Charter on Human and Peoples' Rights (ACHPR) regarding right to security;
- Declare that the Republic of Niger violated Article 26 of ICCPR and Article 3 of ACHPR regarding equality before the law;
- Declare that the Republic of Niger violated Article 15(1) of ICCPR and Article 7(2) of ACHPR regarding the law of *nulla poena sine lege*;
- Declare that the Republic of Niger violated Article 14 of ICCPR and Article 7 of ACHPR regarding the right to fair hearing;
- Declare that the Republic of Niger violated Article 13 of ACHPR regarding the right to participate freely in the government of his country;
- Declare that the Republic of Niger violated Articles 17 and 23(1) of ICCPR and Article 18 of ACHPR regarding the right to family life;
- Find that the charges laid were made without legal basis and in violation of the principles of fair trial;
- Order the Republic of Niger to refrain from implementing the decision made, and to derive all the legal consequences thereof, capable of depriving the Applicant of his rights, either as a litigant or as a citizen, as stipulated in texts subscribed to by the Republic of Niger on human rights; the Court is further requested to restore the Applicant back to his original situation in which he would have found himself, had the said violations not occurred;
- Ask the Republic of Niger to pay to Amadou Hama the sum of CFA F 3,280,000,000 (Three Billion Two Hundred and Eighty Million CFA Francs) as costs incurred in connection with the instant action.

2. In support of his Application, by way of written pleadings submitted by his Counsel Maîtres Francois Serres and Maître Mike Bul, Hama Amadou averred that on 25 June 2014, a report by a Police Commissioner was brought to the attention of the Public Prosecutor, highlighting suspicions of the involvement of Madam Adizatou Hama,

wife of Amadou Hama, on charges amounting to the fraudulent offer of children to women who were not their biological mothers.

3. That the statement from the report, which equally indicted other personalities, in the terms of which: “in most of the cases, it was the wives who financed the costs”, did not concern him in any way whatsoever. That even before he was heard on the charges, on 16 July 2014, upon summons from the Public Prosecutor, the Minister of Justice brought the matter before the Council of Ministers, for the purposes of “lifting the parliamentary immunity” on him; and following the summons before the Council of Ministers, the Prime Minister, in turn, brought the matter before the Bureau of the National Assembly, for a trial to be instituted against him.
4. That in reaction to this manner of proceeding with the case, which he deemed irregular, he challenged, via a mail addressed to the Prime Minister, the procedure adopted, citing violation of the relevant rules of law and procedure.
5. That his arguments were dismissed by the Prime Minister, and he brought the case before the Constitutional Court to request the opinion of the Court regarding violation of procedure, and to seek suspension of the procedure unlawfully instituted before the Bureau of the National Assembly.
6. That without waiting for the Court’s opinion, which was still in expectation, and in the absence of the President of the Bureau of the National Assembly (since the National Assembly was not in session), the Bureau was convened by its Vice-President (who is a member of the Majority) and indeed, not by its President; that under utterly irregular conditions, composed of 7 out of the 11 members, the Bureau voted by a simple majority to authorise a trial to be instituted against him. That the decision, as adopted by the Bureau, was taken while he had not even been summoned by the Public Prosecution Office, and while the latter had not ordered any proceedings to be brought against him.

7. That due to the obvious violations involved in the procedure for removing his immunity, and the risks confronting him, concerning his safety and his life, on 28 August 2014, he was compelled to go into exile in France.
8. That on 15 September 2014, the Public Prosecutor notified the trial judge of a substituted summons indicating that an authorisation for arrest had been approved by the National Assembly to re-open trial proceedings against him.
9. That on 23 September 2014, it was observed that he was no more at his home, and a court order was issued to search for him, but to no avail; that on the basis of that fruitless search, on 25 September 2014, the Public Prosecutor instructed the investigating judge to prepare a warrant for his arrest, which was complied with. That on 4 December 2014, the order for closure of the trial proceedings and transfer before the criminal court, stated that his case must be transferred before the criminal court of Niamey.
10. That upon his return to his home country, he was picked off the staircase of the aircraft and sent to the Niamey civilian, that his imprisonment was effected without him appearing before the Public Prosecutor of the area of his arrest nor before another judge. That the detention lasted from 14 November 2015 to 16 March 2016, still without him having appeared before the judge who was investigating the case (who, therefore, did not hear him), nor before another judge.
11. That at any rate, all the other key figures indicted in the procedure were free, and requests for the release of Amadou Hama were systematically rejected upon the pretext of preventing every collusion with the other persons charged with other offences, whereas the investigation at that stage had closed and the case had already been tried in first instance and at appeal stage, and was pending before the *Cour de cassation* (Cassation Court).

- 12.** That he was thus detained by virtue of an arrest warrant issued on 25 September 2014 whose validity and enforceability cannot be sustained before the decision made by the judges of the court of first instance on 30 January 2015, who ruled that the procedure initiated had no legal basis unless there was a prior decision by a civil court on the issue of parentage and blood relationship.
- 13.** That contending that his human rights were violated, he brought the matter before the Community Court of Justice, ECOWAS for violation of his right to security, his right to equality before the law, his right regarding violation of the law of *nulla poena sine lege*, his right to fair hearing, and his right to family life.
- 14.** That in response, the Republic of Niger argued, through the written pleadings of his Counsel Maître Moussa Coulibaly, that in 2014, the Nigerian media reported on the discovery of a huge inter-State child trafficking syndicate in the sub-region. That under aegis of a police co-operation framework among ECOWAS Member States, a dispatch was sent from within the Niger Police Force to Nigeria to investigate, and in their report, they made mention of the dismantling of a child trafficking network named 'baby factories'. That searches conducted on the premises of those 'baby factories' led to the discovery of young ladies who were held in captivity till they give birth, and their babies were sold by one Agoundeji Happiness, at 800,000 Naira for a boy and between 300,000 to 400,000 Naira per girl.
- 15.** That the preliminary inquiry of the Criminal Investigation Division (CID) of the Niger Police led to the arrest of 18 persons for questioning including Madam Adizatou Amadou Dieye, the wife of the Applicant.
- 16.** That Madam Adizatou Amadou Dieye challenged the charges made against her and stated that she gave birth to a set of twins on 1 September 2012 without indicating the health centre where she gave birth. That questioned on the birth certificates of the children concerned, she asked the investigators to find out from Hama Amadou, her husband, disclosing further that the children are holders of diplomatic passports of Niger.

- 17.** That in closing the trial of the criminal procedure instituted in connection with the case, the investigating judge pointed out that there were serious and corroborating indications standing against Hama Amadou and testifying that he was accomplice to the offence of fraudulently offering children to women who were not their biological mothers, committed by his wife Adizatou Amadou Dieye, forgery of civil documents through falsification of the birth certificates of Lilian-Guel and Lalia-Fadima, use of forged civil documents by tendering false birth certificates for the purpose of procuring passports for the said two children.
- 18.** That being the President of the National Assembly, and therefore a member of the state parliament, the trial judge transferred the case-file on the proceedings to the Public Prosecutor to enable the procedure to follow its course as required by law.
- 19.** That applying that procedure meant that the Applicant had to be brought to trial.
- 20.** That recognising that the Bureau of the National Assembly was incompetent to authorise him to be brought to trial, and that the authorisation for arrest did not constitute removal of parliamentary immunity, Hama Amadou and a group of opposition parliamentarians brought the case before the Constitutional Court.
- 21.** That by Judgments of 4 and 9 September 2014, the Constitutional Court the then Bureau of the National Assembly was competent, outside its session periods, to authorise the arrest of a parliamentarian, and that the authorisation for arrest given by the Bureau of the National Assembly constituted a removal of parliamentary immunity.
- 22.** That in conclusion, the Honourable Court is principally requested to declare that it has no jurisdiction to hear the case, and alternatively, it is prayed to declare that the Application is *inadmissible* on the ground

of res judicata, and on a further alternative plea, may it please the Court to declare that the Application is ill-founded.

23. That considering that the instant procedure is frivolous in nature and an abuse of court procedure, it requests, as a counter-claim, that the Applicant pay damages of a symbolic 1 CFA Franc to the Republic of Niger and CFA 500,000,000 (Five Hundred Million CFA Francs) as unrepeatable costs.

24. Hama Amadou responds in his Reply, received at the Registry of the Court on 1 August 2017, that the violations he submitted before the Court are:

- Violation of his parliamentary immunity;
- Violation of the principle presumption of innocence;
- Political instigation of members of the parliamentary majority of the Bureau;
- Violation of the right to effective remedy;
- Violation of the right to return to one's country;
- The expired nature of the arrest warrant issued against him.

25. That it was in the light of these allegations that the Court must examine whether there is any relevance of res judicata as pleaded by the Republic of Niger. That the action brought before the Court by him is founded upon violation of the right to security, violation of the right to equality before the law, violation of the principle of *nulla poena sine lege*, violation of the principle of fair trial, and violation of the right to family life.

26. That the Honourable Court is competent to determine the case and that there is no re judicata.

27. In its Rejoinder dated 12 January 2018 received at the Registry of the Court on 15 January 2018, the Republic of Niger argues that the Reply lodged by Hama Amadou on 22 November 2017, after closure of the written procedure, and in violation of the provisions of Articles 37(2)(3) and 40(1)(2) of the Rules of Procedure of the Court, must be dismissed.

Alternatively, the Republic of Niger pleads incompetence of the Court, and on a further alternative ground, asks the Court to dismiss all the claims brought by the Applicant, in their intents and purposes. The Republic of Niger also asks the Court to order DNA tests to be carried out on Adizatou Amadou Dieye and on the alleged two children of Hama Amadou and Adizatou Amadou Dieye, as a married couple.

28. Hama Amadou argues that the provisions of Articles 37 and 40 invoked above the Defendant were not violated. That the Court has jurisdiction to hear the dispute and that his rights are violated by the Republic of Niger. That in the absence of any relevant law of Niger on the matter, no DNA test must be ordered by the Court to be conducted on his wife or his children.

29. Upon examining the pleadings in the case, it is apparent that the Court must make pronouncements on the following issues:

- (1) Jurisdiction of the Court;
- (2) Admissibility of the Application and res judicata;
- (3) Violation of human rights;
- (4) Damages on human rights violation;
- (5) Damages on vexatious court process.

ANALYSIS OF THE COURT

A. REGARDING THE JURISDICTION OF THE COURT

30. First and foremost, it is appropriate to stress that the Republic of Niger raised as a principal defence the issue of lack of jurisdiction of the Honourable Court.

31. The Court recalls that in every instance where an application is brought before it, it is binding upon the Court to examine its jurisdiction, as to whether, all things well considered, the incompetence of the Court is advanced as a principal plea for defence; the Court must therefore make a pronouncement on its jurisdiction.

- 32.**It can be deduced from the provisions of Article 9(4) of Supplementary Protocol A/SP.1/01/05 amending Protocol A/P.1/7/91 on the Community Court of Justice, that the Court has jurisdiction to determine cases of violation of human rights that occur in any Member State.
- 33.**In that light, the Applicant invokes violation of human rights under Article 9 of the 19 January 2005 Protocol, alleging that he is a victim of that violation.
- 34.**In several cases, including *Mamadou Tandja v. Niger* and *El Hadj Aboubacar Tijani v. BCEAO*, the Honourable Court declares that for the Court to uphold its human rights mandate, citing human rights violation suffices.
- 35.**It is apparent from the Initiating Application that Hama Amadou is asking the Court to declare that the Republic of Niger violated the provisions of: Article 9 of the International Covenant on Civil and Political Rights (ICCPR) and Article 6 of the African Charter on Human and Peoples' Rights (ACHPR) regarding right to security; Article 26 of ICCPR and Article 3 of ACHPR regarding equality before the law; Article 15(1) of ICCPR and Article 7(2) of ACHPR regarding the law of *nulla poena sine lege*; Article 14 of ICCPR and Article 7 of ACHPR regarding the right to fair hearing; Article 13 of ACHPR regarding the right to participate freely in the government of his country; Articles 17 and 23(1) of ICCPR and Article 18 of ACHPR regarding the right to family life.
- 36.**He further asks the Court to: find that the charges laid against him were made without legal basis and in violation of the principles of fair trial, and order the Republic of Niger to refrain from implementing the decision made, and derive all the legal consequences thereof, capable of depriving him of his rights, either as a litigant or as a citizen, as stipulated in texts subscribed to by the Republic of Niger on human rights; to restore him back to his original situation in which he would have found himself, had the said violations not occurred.

37. The Court notes that it has jurisdiction to hear human rights violations arising from provisions of the ACHPR and the ICCPR, which the Applicant claims to be a victim of, as may have been perpetrated by the Republic of Niger, a Member State of the Economic Community of West African States (ECOWAS).
38. On the other hand, as regards the request before the Court, to examine the legality or otherwise of the charges made against him by the law-enforcement agencies of the Republic of Niger, the Court recalls that as far as that specific request is concerned, there is a well-established case law of the Court according to which applications brought against decisions of the national courts of Member States shall be considered to be outside the remit of the powers of the Court.
39. The Court held so in *Case Concerning Jerry Ugokwe v. Federal Republic of Nigeria* (7 October 2005).
40. In *Case Concerning Al Hadji Hammani Tijani v. Federal Republic of Nigeria and Others* (28 June 2007), the Court was of the view that: **“Admitting this application will amount to this Court interfering in the criminal jurisdiction of the Nigerian Courts, without justification”**
§45
41. Similarly, in the judgment on *Alimu Akeem v. Federal Republic of Nigeria* (28 January 2014), the Court recalled that: **“It is trite that in those cases where the subject-matter of the dispute essentially had to do with a re-examining of judgments already delivered by the domestic courts, the Honourable Court held that they be dismissed.”**
42. Finally, in the judgment of *CDS Rahama v. Republic of Niger* (23 April 2015), the Court ruled that: **“On the basis of the principle behind this standpoint, it can be deduced that the requests of CDS Rahama concerning the decisions of the local courts of Niger cannot be granted, the reason being that the Court has no remit for examining such decisions; and more generally, after decisions are made by the domestic courts of Niger, the Court has no jurisdiction to examine**

whether those local courts of Niger adhered or not to their jurisprudence or generally, to the national law of Niger.” (§51).

43. Such abundant and relevant jurisprudence urges the Court to decline jurisdiction on that aspect of the Application which concerns the domestic law.
44. Whatever the case may be, it is undoubted that in the Application brought before the Court on 5 April 2017 by Hama Amadou against the Republic of Niger, he equally alleges violation of human rights, notably violation of the right to security, violation of the right to equality before the law, violation of the principle of *nulla poena sine lege*, violation of the right to fair trial and violation of the right to family life.
45. In accordance with Article 9(4) of the January 2005 Protocol, in the terms of which ***“The Court has jurisdiction to determine cases of violation of human rights that occur in any Member State”***, and in line with Article 10(d) of the same Protocol which provides that ***“Access to the Court is open to ... individuals on application for relief for violation of their human rights ...”***, the Honourable Court is competent to hear the instant case.

B. REGARDING ADMISSIBILITY OF THE APPLICATION AND THE FORCE OF RES JUDICATA

46. In the terms of Article 10(d) of Supplementary Protocol A/SP.1/01/05 of 19 January 2005: ***“Access to the Court is open to ... individuals on application for relief for violation of their human rights ...”***.
47. The application thus submitted shall not be anonymous nor be made whilst the same matter has been instituted before another International Court for adjudication.
48. In the present case, the Court notes that an application for human rights violation has been submitted before it by Hama Amadou, claiming to be a victim of those human rights violations as enumerated in the Initiating Application.

- 49.** Upon scrutiny, the Application is not anonymous and the Applicant has not lodged the same matter before another International Court for adjudication. The Court is therefore, in principle and on the face of it, declares the Application admissible.
- 50.** All the same, it is worthy to recall that in the Defence against the Application filed by Hama Amadou, the Republic of Niger invoked *res judicata*, which, legally speaking, is a foreclosure (an estoppel).
- 51.** The Court emphasises that *res judicata* is the sum total of effects arising from a court decision in such manner as to render the decision not contestable except under legally open channels.
- 52.** A court decision is binding on the parties and all the courts of justice; a court decision thus prevents other courts from settling the same dispute for a second time.
- 53.** However, *res judicata* only concerns the subject-matter of the decision made in court.
- 54.** The orders sought must have been made by the same parties and against the same parties, and must be based on the same cause; what is asked for from the court must remain the same.
- 55.** Incidentally, the Republic of Niger avers that the present case is exactly the same as the one Hama Amadou filed before the Honourable Court (ECW/CCJ/APP/32/15) which was decided on its merits in Judgment ECW/CCJ/JUD/20/16; the Republic of Niger consequently affirms that the force of *res judicata* is applicable.
- 56.** On the contrary, Hama Amadou maintains that the present procedure is completely different from the first one in the sense that unlike the first one, he is now invoking violations of: right to security, right to equality before the law, right regarding violation of the law of *nulla poena sine lege*, right to fair hearing, and right to family life.

57.The Court must conduct a critical analysis of the facts, so as to determine if in the instant case, there is indeed *res judicata*.

58.The first procedure, Suit No. ECW/CCJ/APP/32/15, was between Hama Amadou, as Applicant, and the Republic of Niger, as Defendant.

59.The present procedure, ECW/CCJ/APP/19/17, is between Hama Amadou, as Applicant, and the Republic of Niger, as Defendant.

60.The two suits therefore involve the same Parties coming before the Court, in their same respective capacities.

61.The following facts can be gathered from the judgment delivered on the first case, as delivered by the Court:

- The Applicant, former President of the National Assembly of Niger, filed a case before the Court for human rights violation;
- Initially an ally of the government in place, after the 2011 elections, he had to leave the political alliance, following internal disagreements regarding the alliance. He contends that during the month of February 2014, various measures were taken by the government authorities primarily aimed at stripping him of police protection. But of special note is that in the month of June 2014, and after the press had reported on a big case of child trafficking, whose principal transit points were located in the Republic of Benin, the Republic of Niger and the Federal Republic of Nigeria, police investigations led to the indictment of the Applicant's wife, and subsequently the Applicant himself, in connection with the case. Inquiries were thus launched against them, and on 22 June 2014, Mrs. Hama Amadou was summoned for questioning; she was placed in police custody and accused of fraudulent sale of children to women who were not their biological mothers, forgery and use of forged documents and criminal association;
- On 15 September 2014, the Prosecutor brings the matter before the dean of investigating judges, for trial proceedings to be instituted against Hama Amadou, under the same counts of charges;

- Indeed, due to the status of the Applicant as a parliamentarian, and moreover as the President of the National Assembly, a special procedure was required for effecting his arrest. It was within that context that the Prime Minister served an application on the Bureau of the National Assembly to produce Hama Amadou for prosecution. The Bureau acceded to the request, informing the President of the Appeal Court of Niamey;
- The same day, on 26 August 2014, in writing, Hama Amadou writes to the following authorities, and brings the matter before them, considering the approach adopted by certain state institutions, in bringing him before trial, as an illegal procedure: the Prime Minister himself, the Vice-President of the National Assembly, and particularly, strictly legally speaking, the Constitutional Court (for interpretation of Article 88 of the Constitution of Niger, regarding parliamentary immunity and the conditions for the arrest of a parliamentarian);
- Almost a month later, on 25 September 2014, an arrest warrant was issued against the Applicant, who quickly left the country. He stays 'in exile' for more than one year. It was upon his return to the country, particularly to participate in the presidential election, that he was arrested and detained;
- It was under those circumstances that he decided, by an application which reached the Registry of the Court on 3 November 2015, to file his case before the ECOWAS Court of Justice, claiming that the state authorities of Niger violated his rights;
- At the same time, the Applicant lodged an application requesting the Court to hear the case under expedited procedure, claiming urgency. The Court, in an order, dismissed the request and ordered the proceedings to continue;
- The Republic of Niger, on its part, lodged a defence on 1 December 2015, and an 'additional' memorial in defence, on 4 December 2015.

- 62.** Upon examining the foregoing facts, one is left with no doubt that the same facts are at play in the two procedures; since the delivery of the said Judgment by the Honourable Court on 1 July 2016, similar charges have not been filed against Hama Amadou, the Applicant.
- 63.** In the first case, Hama Amadou pleaded that these facts constitute human rights violation and he asked for monetary compensation; in the present case, he equally pleads human rights violation and asks for relief for the harm the violations may have caused him.
- 64.** The Court finds therefore that in the present case, the Application is made by the same Applicant, Hama Amadou, against the same Defendant, the Republic of Niger. The Court equally finds that the Application is based on the same cause, that is to say, human rights violation. The purpose of the request is also the same, in the sense that in both proceedings, the order sought is payment of damages.
- 65.** Now, very obviously, the Honourable Court has sat on this case and already adjudicated and concluded that the Applicant did not produce any decisive proofs capable of establishing evidence of violation of rights. His Application was therefore dismissed.
- 66.** Since Judgment No. ECW/CCJ/JUD/20/16 of the Court is not subject to appeal, it automatically means that the judgment is *res judicata*, such that that very case which gave rise to the said judgment cannot be brought before the Court for a second time without invoking new facts before the Court.
- 67.** Therefore, irrespective of its apparent consistency with formality, the Application of Hama Amadou is inadmissible before the Court.
- 68.** Since the Application is inadmissible on grounds of *res judicata*, the Court cannot make any pronouncement on the alleged human rights violation, much less, on the request for damages in reparation for the said violations.

C. REGARDING COUNTER-CLAIMS AND DAMAGES FOR ABUSE OF COURT PROCESS

69. The Court recalls that abuse in the exercise of a right is constituted by a manifest offence such as fraud or bad faith, a gross misdemeanour of deceit, or an intention to cause harm.

70. In the case at hand, the pleading of the Republic of Niger describes the instant procedure as an abuse of court process. It also claims that the action is vexatious and of bad faith towards the interests of the Republic of Niger, but it does not bring evidence of the offence committed by the Applicant who initiated the process, his alleged gross misdemeanour, his bad faith, or his intention to harm.

71. Consequently, the said request, as made by the Republic of Niger, is ill-founded.

72. The request is hereby dismissed.

D. REGARDING COSTS

73. In the terms of Article 66 of the Rules of Procedure of the Community Court of Justice, ECOWAS, ***“The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party’s pleadings.”***

74. In the instant case, both Parties are unsuccessful.

75. Moreover, each of the two Parties expressly applied for costs to be awarded against the other.

76. Thus, each Party shall bear its own costs.

FOR THESE REASONS

The Court,

- Adjudicating in a public session, after hearing both Parties, in a matter on human rights violation, in first and last resort;
- Declares that it has no jurisdiction to adjudicate on all the issues raised by the Applicant, concerning the decisions of the domestic courts of the Republic of Niger;
- Declares that it has jurisdiction to adjudicate on the other matters pleaded in the Application;
- Finds that the dispute is between the same Parties, maintaining the same former status respectively as Applicant and Defendant, with both Parties pleading the same cause, and for the same purpose;
- Adjudges that the force of *res judicata* is upheld and sustained;
- Adjudges therefore that the Application of Hama Amadou is inadmissible;
- Entertains the counter-claim and application for damages brought by the Defendant;
- Adjudges, however, that the counter-claim and application for damages brought by the Defendant are ill-founded;
- Dismisses the counter-claim and application for damages brought by the Defendant;
- Adjudges that each Party shall bear its own costs.

Made and declared on the day, month and year indicated above.

AND THE FOLLOWING HEREBY APPEND THEIR SIGNATURES

1. Hon. Justice Edward Amoako Asante Presiding

2. Hon. Justice Gberi-Bé Ouattara Member

3. Hon. Justice Keikura Bangura Member

Assisted By: Maître Athanase Atannon Registrar