



**COMMUNITY COURT OF JUSTICE, ECOWAS**  
**COUR DE JUSTICE DE LA COMMUNAUTE, CEDEAO**  
**TRIBUNAL DE JUSTICA DA COMUNIDADE, CEDEAO**

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

In the Matter of

**THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC  
RIGHTS AND ACCOUNTABILITY PROJECT (SERAP)**

**V.**

**THE FEDERAL REPUBLIC OF NIGERIA**

*Application No: ECW/CCJ/APP/20/22; Judgment No. ECW/CCJ/JUD/35/24*

**JUDGMENT**

**ABUJA**

**13 November 2024**

**THE REGISTERED TRUSTEES OF THE  
SOCIO-ECONOMIC RIGHTS AND  
ACCOUNTABILITY PROJECT (SERAP)**

**-APPLICANT**

**V.**

**THE FEDERAL REPUBLIC OF NIGERIA**

**-RESPONDENT**

**COMPOSITION OF THE COURT**

Hon. Justice Ricardo Cláudio Monteiro Gonçalves -Presiding

Hon. Justice Sengu Mohamed Koroma - Member

Hon. Justice Dupe Atoki - Member / Judge Rapporteur

**ASSISTED BY:**

Dr. Yaouza OURO-SAMA - Chief Registrar

**REPRESENTATION OF PARTIES**

Oluwadare Kolawole - Counsel for the APPLICANT

Maimuna Lami Shiru (Mrs.) -Counsel for the RESPONDENT



## **I. JUDGMENT**

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

## **II. DESCRIPTION OF THE PARTIES**

2. The Applicant is a non-governmental organization (NGO) registered in Nigeria, with its address at 18 Bamako Street, Wuse Zone 1, Abuja FCT, Nigeria.
3. The Respondent is the Federal Republic of Nigeria, a member State of the Economic Community of West African States (ECOWAS).

## **III. INTRODUCTION**

4. The Applicant's case is premised on the alleged failure of the Respondent to protect and guarantee the rights to life, dignity and security of the human person of passengers and victims of an alleged attack on an Abuja-Kaduna train, which occurred on 28 March 2022. These violations are alleged to be in contravention of Articles 1, 4, 5 and 6 of the African Charter on Human and Peoples' Rights, Articles 6 and 9 of the International Covenant on Civil and Political Rights, and Articles 3 and 4 of the Universal Declaration of Human Rights.

## **IV. PROCEDURE BEFORE THE COURT**

5. The Applicant commenced the proceedings by an Initiating Application, along with an Application for Expedited Procedure, both dated 8 April 2022, and filed on 19 April 2022. The Applications were served on the Respondent electronically on 27 April 2022.

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6. The Respondent filed a Motion for Extension of Time to File Defence, together with a Statement of Defence, both dated 10 May 2024, and filed on 14 May 2024. These were served on the Applicant on 14 May 2024.
7. On 03 July 2024, the Court held a virtual hearing in the case. The Applicant was represented by Counsel while the Respondent was absent and not represented. The Court noted that the Application for expedited procedure by the Applicant is devoid of purpose since hearing in the matter had commenced. The Court granted all pending motions to regularize already filed legal documents. The Applicant adopted its Initiating Application and adumbrated accordingly. In the absence of the Respondent, the Court took judicial notice of the defence lodged by the Respondent and adjourned the case for judgment.

## V. APPLICANT'S CASE

### a) *Summary of Facts.*

8. The Applicant's case is that on 28 March 2002, a public train belonging to the Respondent and travelling from Abuja to Kaduna was attacked and bombed by armed bandits and terrorists at about 7.45pm in Rigasa Area of Kaduna State. The number of passengers on board was put at 970 approximately by the Nigeria Railway Corporation - operators of the train service.
9. They alleged that several passengers were abducted and taken into the bush by the terrorists who arrived on motorbikes holding firearms and other deadly weapons. Other eyewitness accounts also confirm that the train was attacked and bombed while the armed terrorists fired gunshots at the passengers. Although 26 passengers were officially declared missing, as of 4 April 2022, over 150 passengers were still unaccounted for at the time of this action.
10. The Applicant further alleged that the 28 March 2022 train attack by terrorists was not the first of its kind as Kaduna State has perpetually come under several attacks by



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terrorists with little or no preventive measures taken by the Respondent. That on 21<sup>st</sup> October 2021, the Nigerian Railways Corporation temporarily suspended its services on the Abuja-Kaduna following a deadly attack on one of its trains by terrorists on 20th October 2020. The attack had affected the fuel tank of the Locomotive on the Abuja-Kaduna rail line (AK10).

11. Also, a few days before the 28 March 2022 attack, some terrorists had gained control of and entered into the Kaduna Airport in a daring attack. Furthermore, the several attacks by terrorists led to the closure in 2021 of schools in Kaduna State by the Respondent and the Kaduna State government following frequent abductions of students, teachers and other people.
12. The Applicant claimed that after the first train attack of 20 October 2021, several warnings to take preventive measures to provide adequate security of passengers on the train in that zone, including suspending late train services, were ignored by Respondent.
13. Furthermore, the Applicant alleged that the Respondent had intelligence information of the pending attack of the 28 March 2022 but took no preventive measures. This allegation was supported by a newspaper publication annexed to the Applicant's application.
14. They concluded that due to the negligence of the Respondent, the attack of 28<sup>th</sup> March 2022 resulted in the deaths of many passengers on the train including Dr. Chinelo Megafo, Mr. Musa Lawal (Secretary of the Trade Union Congress of Nigeria), Farida Muhammed, among others. Survivors of the attack included Ibrahim Wakala (Former Deputy Governor of Zamfara State), Aisha Bindawa, Fatima Shaiabu, Maimunat Ibrahim and Garba Mohammed. Several other passengers were abducted including Alwan Ali Hassan (Managing Director of the Bank of Agriculture) who was later released by the terrorists.

15. In support of their claims, the Applicant submitted Annexures A to H, which are newspaper publications, as well as Annexures I to N, which are video clips.
16. The Applicant concluded their case by alleging that despite the train attack, death, injury and kidnap of some passengers, the Respondent failed to carry out any investigation and prosecute the perpetrators. This they claim violates the Respondent's obligation under Article 1 of the African Charter.

*a. Pleas in Law*

17. Applicant relied on the following laws:

- i. Articles 1, 4, 5 and 6 of the African Charter on Human and Peoples' Rights.
- ii. Articles 1, 4, 5 and 6 of the International Covenant on Civil and Political Rights.
- iii. Articles 1, 2 and 3 of the Universal Declaration of Human Rights of 1948.
- iv. Articles 4, 5, 15, 17, 57 and 58 of the Revised Treaty of the Economic Community of West African States.
- v. Article 33 of the Rules of the Community Court of Justice.
- vi. Article 10 of the Supplementary Protocol (A/SP.1/01/05) amending the Protocol (A/P.I/7/91) relating to the Community Court of Justice.

*b. Reliefs Sought*

18. Applicant prays the Court to grant the following reliefs:

- i. A DECLARATION that the attacks on, and the abductions and killings by terrorists of passengers on the Abuja-Kaduna bound train on 28 March 2022 amount to failure by the Respondent to exercise due diligence to prevent the attacks, abductions and killings, and cannot be justified, and therefore constitutes a serious breach of Nigeria's international human



- rights obligations and commitments to ensure and secure the rights to life, to dignity and security of the human person, and to property, guaranteed under the African Charter on Human and Peoples' Rights, and the UN International Covenant on Civil and Political Rights to which Nigeria is a state party.
- ii. A DECLARATION that the failure of the Respondent to exercise due diligence and to take steps to prevent attacks, abductions and killings by terrorists on the Abuja-Kaduna bound train on 28 March 2022, is unlawful as it amounts to breaches of obligations to respect, protect, promote and fulfil the human rights guaranteed under the African Charter on Human and Peoples' Rights and International Covenant on Civil and Political Rights to which Nigeria is a state party.
- iii. A DECLARATION that the failure of the Respondent to conduct prompt, impartial, thorough, transparent and effective investigations and to hold those responsible to account, is unlawful as it amounts to breaches of obligations to respect, protect, promote and fulfil the human rights guaranteed under the African Charter on Human and Peoples' Rights and International Covenant on Civil and Political Rights to which Nigeria is a state party.
- iv. A DECLARATION that the failure of the Respondent to provide for an effective remedy and reparation for the passengers and victims of the train attack, is unlawful as it amounts to breaches of obligations to respect, protect, promote and fulfil the human rights guaranteed under the African Charter on Human and Peoples' Rights and International Covenant on Civil and Political Rights to which Nigeria is a state party.
- v. A DECLARATION that the failure of the Respondent to provide an environment necessary for securing and promoting the enjoyment of the





- human rights to life, dignity and security of the person, and to property anywhere in Nigeria including on the train, is unlawful as it amounts to breaches of obligations to promote and fulfil the human rights guaranteed under the African Charter on Human and Peoples' Rights and International Covenant on Civil and Political Rights to which Nigeria is a state party.
- vi. AN ORDER directing the Respondent and/or its agents individually and/or collectively to promptly, thoroughly, transparently and effectively the attacks on the train, and to bring perpetrators to justice.
- vii. AN ORDER directing the Respondent and/or its agents individually and/or collectively to respect, protect, promote, and fulfil the human rights of Nigerians including travellers on the train across the country, including by putting in place adequate security and preventive measures to stop further attacks on the train.
- viii. AN ORDER of the court directing the Respondent and its agents to take all necessary measures to ensure the safe return of the abducted passengers and victims of the 28 March 2022 train attack in Kaduna State.
- ix. AN ORDER directing the Respondent to identify all the passengers, victims and their families, and to pay adequate monetary compensation of N50 million to each of the passengers and victims and their families.
- x. AN ORDER directing the Respondent and/or its agents individually and/or collectively to provide effective remedies and reparation, including restitution, satisfaction or guarantees of non-repetition that the Honourable Court may deem fit to grant to the victims of attacks on the train by terrorists.
- xi. AND FOR SUCH FURTHER ORDER(S) the Honorable Court may deem fit to make in the circumstances.



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## **VI. RESPONDENT'S CASE**

### *Summary of Facts*

19. The Respondent denies every material allegation of the Applicant and states that the facts presented are hearsay evidence without any substantial proof thereof.
20. In response to the assertion that there were previous attacks owing to the growing insecurity in the country, which led to the temporary suspension of the services of Abuja -Kaduna rail line, the Respondent stated that it has constantly faced terrorism and banditry as security challenges in its North-Western States and it has not relented in its efforts in tackling the security challenges within its territory.
21. In further response to buttress its efforts in that regard, the Respondent claims that it has launched several military operations such as operation Hadarin Daji and many others to eliminate terrorism and banditry in the North-West of Nigeria. That this position is confirmed by the newspaper publication of the Premium Times reported on 11<sup>th</sup> August 2022 showing that Nigerian Military killed 45 terrorists, and released 45 kidnapped victims in Northwest, and North Central states of Nigeria.
22. The Respondent averred that in furtherance of its efforts to eliminate terrorism and banditry bedeviling the North-Western States of Nigeria, it has also launched military operations through Nigerian Air Force which claimed several lives of the terrorist and bandits in both the North-East and North-West of the Respondent State. This claim was supported with a newspaper publication in the Guardian Newspaper of 5<sup>th</sup> November 2023.
23. With regards to having pre-knowledge of the planned attack and ignoring intelligence information, the Respondent denied having any prior knowledge of the imminent attack on the train, claiming that the attack of 28 March 2022 came suddenly, without any threat or forewarning, contrary to the assertion of the Applicant. Furthermore, it was an unforeseeable act of God or force majeure, an extraordinary event exceeding its control. They also denied receiving any warnings about the said attack. They



argued that if they had received a forewarning of the attack, preventive and precautionary measures would have been undertaken to avert same.

24. In response to the closure of schools in Kaduna, they insist that the efforts of its security agencies in restoring peace and availability of a safe learning environment led to the reopening of schools earlier shut down because of insecurity in the North-West and North-East.
25. Responding to the allegation of the un-rescued abducted passengers, they stated that the Respondent's Chief of Defense Staff had set up a Presidential Committee which rescued all the passengers who were kidnapped from the train attack of 28 March 2022, and reunited them with their families. The last 23 passengers were rescued on 05 October 2022.
26. Concerning failure to investigate and prosecute the perpetrators of the said train attack, the Respondent declared that its security agencies have arrested a suspected mastermind of the Kaduna train attack, one Ibrahim Abdullahi, a.k.a. Mande, along with other suspects, on April 27, 2024, having confessed to being the mastermind of the attack.
27. In support of its claims, the Respondent submitted Annexures A to D, which are newspaper clips.
28. The Respondent argued that the Applicant has not disclosed any actionable wrong done to it by the Respondent, for which the Court can grant the orders sought by the Applicant.
29. In conclusion, they affirmed their commitment to the fulfilment of their obligations under international and regional human rights treaties, guaranteeing and protecting the security of life and dignity of all citizens.

a. Pleas in Law

30. The Respondent relied on the following laws:



Yes

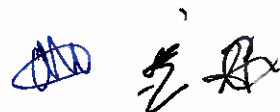
- ii. Article 8, Universal Declaration of Human Rights.
- iii. African Charter on Human and Peoples' Rights.
- iv. Article 9 of the Supplementary Protocol [A/SP.1/01/05] amending the Protocol [A/P1/7/91] relating to the Community Court of Justice.

Reliefs Sought.

- i. The Respondent submitted a sole relief urging the Court to dismiss the Application for want of jurisdiction, lacking in merit and unsubstantiated.

**VII. JURISDICTION**

31. The jurisdiction of the Court is conferred by statute and in that regard, Article 9 (4) of the Protocol of the ECOWAS Court A/P1/7/91 as amended by Supplementary Protocol A/SP.1/01/05 confers on this Court the jurisdiction to determine cases of violation of human rights that occur in any Member State.
32. The instant case is premised on the Respondent's failure to put adequate measures in place to secure the lives and properties of passengers of the Abuja – Kaduna train service which was attacked on 28 March 2022. On this basis, the Applicant alleged the violation of the rights to life, dignity and security of the human persons as provided for in Article 4 and 6 respectively of the African Charter and other international instruments.
33. The Respondent on the other hand argued that the subject matter of this case falls within the realm of tortious liability of negligence which is not contemplated by Article 9 (4) of the Protocol of the ECOWAS Court A/P.1/7/91 as amended by Supplementary Protocol A/SP.1/01/05.
34. To activate this jurisdiction, it is sufficient if an Applicant alleges that violations of human rights have taken place in the territory of the Respondent state and that the Respondent is responsible for those violations, but without prejudice to the



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determination of the claims on the merits after hearing both parties. REGISTERED TRUSTEES OF GAN- ALLAH FULANI DEVELOPMENT ASSOCIATION V FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/06/23, para 38.

35. Thus, mere allegations of human rights violation are sufficient to invoke its human rights jurisdiction. THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC & ACCOUNTABILITY PROJECT (SERAP) V. FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/12/22 @ para 29. Since this case alleges the violation of human rights provided for in Articles 4 and 6 of the African Charter and other international instruments which the Respondent has ratified, this Court holds that it has jurisdiction to determine this case.

#### **VIII. ADMISSIBILITY.**

36. On the admissibility of the Application, there are three main requirements under Article 10(d) of the Protocol of the Court, namely, (a) the applicant's victim status or standing, (b) the non-anonymity of the application; and (c) the non-pendency of the matter before another international court or tribunal. AZIAGBEDE KOKOU & OTHERS V REPUBLIC OF TOGO [2013] CCJELR 167, PARA 18.
37. In the instant case, the application is not anonymous and there is no evidence that the Applicant has submitted the same claim to another international mechanism. Therefore, the requirements of non-anonymity and non-pendency before another international court are satisfied. The admissibility requirement which needs closer examination is the victim status or standing.
38. With regards to the victim status, the Respondent argues that the Applicant's claim discloses no wrongdoing by the Respondent against the Applicant's interest, neither was any harm or injury suffered by the Applicant as a result of the alleged act or omission of the Respondent. Therefore, the Applicant not being a prima facie victim, they urge the Court to declare the Application inadmissible. The Applicant while



conceding to the fact that they are not victims, insist that they can maintain this action because it is premised on public interest.

39. The general understanding of victim status or standing under Article 10(d) as confirmed by the Court's jurisprudence is that Applicants must demonstrate that they are, *prima facie*, victims of human rights violations attributable to the Respondent. In other words, they have been injured by the conduct of the Respondent (be it an act, omission, practice, law amongst others) and therefore have a personal interest or stake in the matter. See AMNESTY INTERNATIONAL TOGO AND OTHERS V THE TOGOLESE REPUBLIC ECW/CCJ/JUD/09/20, paras 31-33.
40. Nevertheless, the Court has recognized situations when persons other than the direct victims of a human rights violation can approach the Court on behalf of the victims. These include (a) actions brought by indirect victims (i.e., persons closely related to the direct victim and who potentially suffer indirect consequences of the human rights violation) (b) a representative action brought by an individual or NGO on behalf of an individual victim or a group with the authorisation of such individual or group; (c) Public interest actions (action popularis) brought by NGOs or public-spirited individuals for public good.

▪ *Indirect Victim*

41. The Court recognises the right of relatives of direct victims of violation of human rights to bring an action before the Court on behalf of such victims. THE REGISTERED TRUSTEES OF JAMA'A FOUNDATION & 5 ORS v. FEDERAL REPUBLIC OF NIGERIA & 1 OR. ECW/CCJ/JUD/04/20 @ pg. 18.
42. Under this route to standing, the Applicants must have a family or other close personal relationship with the direct victim to be able to sue. See ATTIPOE KUAKU V SIERRA LEONE, PARAS 42-43; SERAP V NIGERIA [2014] CCJELR 33, para 16. Given that the Applicant, an NGO does not have a family or other close personal relationship with

the direct victims, it cannot sustain the action under this exception to the general rule of standing.

- *Representative action.*

43. The Court equally recognises representative action as an alternative to the right of a direct victim to approach the court where an Applicant, authorised to act, by virtue of a power of attorney, on behalf of another person, or a group of people, whose legally protected interests have been harmed, shall exercise the power of representation in the action, so as to ensure that the claims brought by another person, or a group of persons succeeds. See BAKARY SARRE AND 28 OTHERS V MALI ECW/CCJ/JUD/03/11, PARA 37.
44. In this instance, the Court is not presented with any evidence authorising the Applicants to bring the instant action on behalf of the victims of the train attack of 28 March 2022. In that regard, the application cannot be said to be a representative action for which it can be declared admissible.

- *Actio popularis*

45. Concerning the standing requirement in this case, the Applicant asserts that it “has filed this suit in the public interest” and hence, “its claims are properly situated before this Honourable Court.” (*Initiating Application*, para 6.2). In assessing whether the Applicant is properly before the Court as a public interest litigant, the Court begins by re-emphasizing that to successfully sue as a public interest litigant without obtaining authorisation from the victims of the alleged human rights violation, the following conditions should be met: 1) the rights alleged to have been violated must be established to be capable of being held by the public and not a private right; 2) the reliefs sought must be for the exclusive benefit of the public to the exclusion of the personal interest of the Applicant. An exception must be made when the Applicant is



a member of the community or the group concerned; and 3) the victims, while not determinable, must for the purposes of award or reparation, be capable of being envisioned or envisaged by the Court. See INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/15/24, at para 118.

46. From the above, the gist of a public interest action is that it is a suit characterized by a cause of action that any member of the public may be entitled to litigate. In other words, the facts or incidents underlying the case create a legal claim in which the public collectively has an interest. Essentially, the public interest encompasses concerns that affect the well-being and rights of the general public or a significant part of society. To this end, the breach of collective or public rights (such as the rights to a healthy environment, self-determination, or development), which are by their nature held and enjoyed collectively or communally, are the primary catalysts for public interest actions.
47. However, as the Court held in ISAAC MENSAH V. REPUBLIC OF GHANA (ECW/CCJ/JUD/30/24) (para 76), individual rights generally held and enjoyed by each person individually may also form the basis of public interest actions where the alleged breach has injured the public or a large, indeterminate section of it. Thus, for instance, if a state were to order the closure of all religious buildings or seal its borders on grounds deemed unjustifiable or disproportionate, or failed/neglected to implement necessary biosecurity measures to prevent the outbreak or spread of a deadly and contagious viral disease, a public interest action could be occasioned albeit for the violation of private rights.
48. Such public interest actions would be justified due to the harm or injury caused to the general public or a large, indeterminate segment of it, even though the rights at stake—such as the rights to worship, movement, life and health,—are typically individual rights.



49. In this case, the Court notes that the rights whose protection the Applicant seeks are the right to life, the right to liberty and security of the person, and the right to dignity guaranteed under relevant provisions of both the African Charter and the ICCPR. While individual rights such as these may be the basis of a public interest action, as affirmed above, the Court notes that the Applicant's case as presented does not assert that the alleged breach of the aforementioned individual rights have injured the general public or a large, indeterminate section of the public.
50. Indeed the Applicant states that overall, 970 passengers were on board the train that was attacked. About 150 of them are missing or unaccounted for, while others were killed. In fact, in the Application, the Applicant provides the names of some of the passengers who were killed. It is therefore clear that this is a case in which the victims are determinate and identifiable. Accordingly, since the present suit focuses only on the 28 March 2022 train attack, whose victims are determinate and fairly identifiable, the Court is not persuaded that the present suit has been brought in the public interest to enforce private rights the alleged breach of which has injured the general public or a large, indeterminate section of the public.
51. The Court further notes, as stated above, that in a public interest action, the remedies or reliefs sought, including any pecuniary relief, must be for the benefit of the public generally, not the applicant or a small identifiable group. In this case, the Applicant has requested orders "directing the [Respondent] and its agents to take all necessary measures to ensure the safe return of the abducted passengers and victims of the 28 March 2022 train attack in Kaduna State," and to "identify all the passengers, victims, and their families, and to pay adequate monetary compensation of N50 million to each of the passengers and victims, and their families." These reliefs and others requested in the Application are specifically meant for the benefit of the identifiable victims of the 28 March 2022 train attack, rather than for the general public. Therefore, the Court



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also finds that the reliefs sought in the Application are not the kind expected in a public interest action.

52. The totality of the facts presented by the Applicants is for a claim for alleged violation of individual human rights of victims who are not only identifiable but also determinable and on whose behalf certain reliefs are sought. The Applicant's claim that their action is premised on public interest, therefore discarding the requirement of victim status, is in the opinion of the Court, an indication that the Applicant misunderstood the context of the application of an *actio popularis* or at best misapplied the principle in this case.
53. In view of the fact that *actio popularis* is a public-centric action and public interest has not been found to be at the center of this application, its admissibility as a public interest action does not avail the Applicants. The proof of victim status which is a prerequisite to admissibility remains sacrosanct.
54. Consequently, the Court holds that the Applicants not being victims cannot maintain the instant Application.
55. The Court therefore declares the Application inadmissible.

## **IX. OPERATIVE CLAUSE**

For the reasons stated above, the Court sitting in public, after hearing both Parties:

### **As to Jurisdiction:**

- i. Declares that it has jurisdiction to determine this case;

*CA*

*EA*

*Yes*

**As to admissibility:**

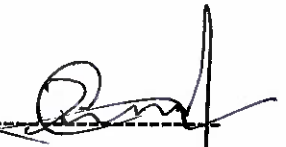
ii. Declares that the case is inadmissible;

**As to costs:**

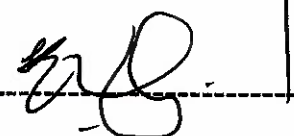
iii. Orders each Party to bear its own costs.

Signed by:

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES - Presiding



Hon. Justice Sengu Mohamed KOROMA - Member



Hon. Justice Dupe ATOKI -

Member/Judge Rapporteur



Dr. Yaouza OURO-SAMA-

Chief Registrar



Done in Abuja, on the 13<sup>th</sup> of November 2024 and English and translated into Portuguese.

