



**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

**GERTRUDE ARABA ESAABA SACKY TORKORNOO**  
**(APPLICANT)**

**v.**

**THE REPUBLIC OF GHANA**  
**(RESPONDENT)**

Application No. ECW/CCJ/APP/32/25

Judgment No. ECW/CCJ/JUD/32/26

***JUDGMENT***

**ABUJA**

**24 JUNE 2026**

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

HOLDEN AT ABUJA, NIGERIA

Application No. **ECW/CCJ/APP/32/25**; Judgment No. **ECW/CCJ/JUD/32/26**

**BETWEEN**

GERTRUDE ARABA ESAABA SACKY TORKORNOO

(APPLICANT)

**AND**

THE REPUBLIC OF GHANA

(RESPONDENT)

**COMPOSITION OF THE COURT**

Hon. Justice Sengu Mohamed KOROMA - Presiding  
Hon. Justice Dupe ATOKI - Member/Judge Rapporteur  
Hon. Justice Gberi Be OUATTARA - Member

**ASSISTED BY:**

Dr. Yaouza OURO-SAMA - Chief Registrar

**REPRESENTATION OF PARTIES:**

Femi Falana, SAN

Marshall Abubakar (Esq) - Counsel for the APPLICANT

Dr. Justice Srem Sai

Reginald Nii Odoi (Esq) - 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 citizen of the Republic of Ghana, and hence a Community citizen. She resides in Accra, Ghana.
3. The Respondent is the Republic of Ghana, a Member State of the Economic Community of West African States (ECOWAS).

## **III. INTRODUCTION**

4. The present Application concerns allegations by the Applicant that the Respondent, the Republic of Ghana, violated her rights to fair hearing and the presumption of innocence, dignity, information, and work as guaranteed under Articles 7, 5, 9, and 15 of the African Charter on Human and Peoples' Rights, respectively. The alleged violations were in connection with her suspension from office as Chief Justice, the constitution and conduct of proceedings by the Committee established to inquire into petitions seeking her removal, and her eventual removal from office as Chief Justice of the Republic of Ghana.

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

5. The case commenced with the filing of an Initiating Application, together with a Request for Assigning Provisional Measures, both dated 30 June 2025, on 4 July 2025. These were served on the Respondent on 7 July 2025.



6. The Respondent filed an Objection to the Request for Provisional Measures, dated 10 July 2025, on 11 July 2025. This was served on the Applicant on 11 July 2025.
7. The Respondent also filed a Preliminary Objection against Jurisdiction for Enforcement of Fundamental Human Rights, dated 11 July 2025. This was filed and served on the Applicant on 14 July 2025.
8. The Applicant, in response, filed a Reply to the Notice of Preliminary Objection, dated and filed on 14 July 2025, and served on the Respondent on the same day.
9. On 14 July 2025, the Court convened a virtual hearing at which both Parties were represented by Counsel. At the commencement of proceedings, Counsel for the Respondent urged the Court to first hear and determine the Respondent's Preliminary Objection challenging the jurisdiction of the Court before considering the Applicant's Application for Provisional Measures. Counsel for the Applicant, on the other hand, requested that all pending applications be heard together. The Court directed that the Preliminary Objection be taken first. Accordingly, Counsel for the Respondent moved the Preliminary Objection and made oral submissions in support thereof, to which Counsel for the Applicant responded. Thereafter, Counsel for the Applicant adopted and argued the Application for Provisional Measures. Counsel for the Respondent opposed the application and urged its dismissal, following which Counsel for the Applicant presented a rebuttal. At the conclusion of the hearing, the Court delivered a bench ruling, indicating that its decision on the Application for Provisional Measures would be rendered together with its ruling on the Preliminary Objection.

10. On 2 September 2025, the Applicant filed an Application for Default Judgment dated 1 September 2025. The application was served electronically on the Respondent on the same date.
11. On 9 September 2025, the Respondent filed an Affidavit in Opposition to the Application for Default Judgment. The process, dated 9 September 2025, was served electronically on the Applicant on 10 September 2025.
12. The Court held a virtual session on 15 September 2025, during which it delivered its ruling in open Court. Both Parties were represented by Counsel. The Court dismissed the Respondent's Preliminary Objection and declared the Application admissible. The Court further held that the Applicant's Application for Provisional Measures was not sufficiently substantiated and accordingly dismissed it. The Respondent was thereafter granted thirty (30) days within which to file its Statement of Defence.
13. On 17 December 2025, the Respondent filed its Statement of Defence dated 16 December 2025. The process was served on the Applicant on the same date.
14. On 18 December 2025, the Applicant filed a Motion on Notice seeking leave to amend the Initiating Application. The Motion, dated 18 December 2025, was served electronically on the Respondent on 23 December 2025.
15. The Amended Application for Enforcement of Fundamental Human Rights, dated and filed on 18 December 2025, was likewise served electronically on the Respondent on 23 December 2025.

16. On 13 January 2026, the Applicant filed a Reply to the Respondent's Statement of Defence, dated 12 January 2026, which was served electronically on the Respondent on the same day.
17. On 30 January 2026, the Court convened a virtual hearing at which all Parties were represented by Counsel. The Respondent indicated its intention to oppose the Applicant's Motion for Amendment. The Applicant also sought leave to withdraw the Motion for Default Judgment on the ground that the Respondent had since entered an appearance and the application had been overtaken by events. In response, the Respondent submitted that the issue had already been disposed of by the Court's earlier ruling. After hearing the Parties, the Court granted the Applicant leave to amend the Initiating Application notwithstanding the Respondent's opposition. The Court further granted the Respondent thirty (30) days within which to file an amended defence, should it deem it necessary. The matter was thereafter adjourned to a date to be communicated to the Parties.
18. On 23 March 2026, the Respondent filed an Amended Statement of Defence dated 20 March 2026. The process was served electronically on the Applicant on 24 March 2026.
19. On 25 March 2026, the Court held a further virtual hearing, with both Parties represented by Counsel. The Court observed that the Respondent's Amended Statement of Defence had been filed out of time and without a formal application for extension of time or regularisation. Counsel for the Applicant accordingly urged the Court to strike out the Amended Defence. Counsel for the Respondent explained that no directive had been served on the Respondent requiring the filing of the process within a specified period and accordingly sought the indulgence of the Court to regularise the filing.

20. Following submissions by both Parties, including the Applicant's request that the Court entertain the Respondent's oral application in the interest of justice, the Court granted the Respondent leave to regularise the Amended Statement of Defence. The Applicant was thereafter granted seven (7) days within which to file a Reply to the Amended Defence. The matter was subsequently adjourned to a date to be communicated to the Parties.
21. On 2 April 2026, Applicant filed her Reply to the Respondent's Amended Statement of Defence, dated 31 March 2026.
22. On 4 May 2026, the Respondent filed a Rejoinder to Applicant's Reply.
23. On 15 May 2026, at the external court session in Conakry, Guinea, the case was heard on merit and adjourned for deliberation and judgment.

#### **V. APPLICANT'S CASE**

24. The Applicant states that she is the duly appointed Chief Justice of the Republic of Ghana and has served in Ghana's Judiciary with integrity and distinction for over twenty years.
25. According to the Applicant, on 25 March 2025, she was surprised to learn through media reports that the Spokesperson to the President of Ghana had issued a press statement titled "President Mahama Consultations with the Council of State on three (3) Petitions for the removal of the Chief Justice."
26. The Applicant states that prior to the publication of the press statement, she had not been notified of the existence of any petition seeking her removal and had not been afforded any opportunity to respond. Upon obtaining a copy of the

statement online, she discovered that the President had allegedly received three petitions seeking her removal and had forwarded them to the Council of State to commence consultations under Article 146 of the Constitution of Ghana, 1992.

27. According to the Applicant, subsequent events revealed that the President had received two of the petitions in mid-February 2025 but did not publicly disclose their existence until 25 March 2025, approximately six weeks later. During this period, consultations with the Council of State had allegedly been undertaken. The Applicant contends that this constituted a breach of her right to be heard and an encroachment upon the constitutionally guaranteed independence of the Judiciary.
28. On 27 March 2025, the Applicant says that she wrote to the President requesting copies of the petitions to enable her respond to them. By a letter dated 29 March 2025, the President provided her with copies of the petitions. The Applicant states that she subsequently submitted detailed responses to each petition, demonstrating, in her view, that none disclosed valid grounds for her removal under Article 146 of the Constitution.
29. The Applicant further states that on the same day she requested copies of the petitions, namely 27 March 2025, a Ghanaian citizen and Member of Parliament, Hon. Vincent Ekow Assafuah, commenced proceedings before the Supreme Court of Ghana challenging the constitutionality of the process initiated against her.
30. According to the Applicant, the suit invoked the original jurisdiction of the Supreme Court and sought, among other reliefs, an interlocutory injunction restraining the President and the Council of State from proceeding with the consultation process for her removal pending the determination of the action.

31. The Applicant says that the proceedings were duly served on the Government of Ghana through the Attorney-General, who filed processes in response to the application for interlocutory relief. However, on 22 April 2025, the President issued a press statement announcing that a *prima facie case* had been established in respect of the three petitions following consultations with the Council of State.
32. Later the same day, the Applicant says that she received a letter from the Office of the President informing her that a *prima facie case* had been established against her. The letter further informed her that she had been suspended from office as Chief Justice and that a five-member committee had been constituted to inquire into the matter.
33. On 30 June 2025, the Applicant instituted the present proceedings before this Court, alleging violations of her rights, including her right to dignity, fair hearing, and access to information.
34. The Applicant states that while the present matter was pending before this Court, she received, on 1 September 2025, a Warrant of Removal from Office signed by the President of the Republic together with a letter from the Secretary to the President.
35. According to the Applicant, the Secretary to the President stated in the accompanying letter that the Warrant of Removal had been issued on the basis of a report prepared by the committee appointed to inquire into the petitions against her.

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36. The Applicant says, however, that no report of the committee accompanied the Warrant of Removal. Neither the report nor any document setting out the committee's findings, reasoning, conclusions, or recommendations was provided to her. She states that, to date, she has not been furnished with a copy of the report that allegedly formed the basis of her removal.
37. The Applicant further states that as of 1 September 2025, when the Warrant of Removal was issued, the committee had not completed its inquiry into all the petitions referred to it. The letter establishing the committee, dated 22 April 2025, indicated that the committee, chaired by Justice Gabriel Pwamang of the Supreme Court, had been appointed to inquire into three petitions through a single instrument of appointment. By 1 September 2025, only one of those petitions had been heard by the committee. However, without notice to her or her lawyers, members of the committee appeared on national television and purportedly presented a report to the President on the completion of their work, without hearing the two other petitions referred to them for determination.
38. Applicant also states that the petitions under inquiry sought only her removal as Chief Justice. Likewise, the committee's instrument of appointment authorized it to inquire into petitions for the removal of the Chief Justice. The Applicant, therefore, contends that her removal from office as a Justice of the Supreme Court was not the subject of the petitions referred to the committee.
39. The Applicant maintains that neither the President nor the committee has, to date, provided her with a copy of the report that allegedly formed the basis of her removal from office. The Applicant further states that the letter dated 1 September 2025 informed her that she had been removed not only from the office of Chief Justice but also from her position as a Justice of the Supreme Court.

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### A. Pleas in Law

40. The Applicant submits the following pleas in law:
- i. That the Court has jurisdiction over the Application
  - ii. That the Application is admissible
  - iii. That the Applicant was denied the right to fair hearing in the determination of a prima facie case and before the investigative Committee contrary to Article 7 of the African Charter.
  - iv. That contrary to Article 7 of the African Charter, the Committee set up to investigate the Applicant was not an independent and impartial tribunal.
  - v. That the findings of the Committee, which formed the basis of her removal from office, are not supported by the evidence and therefore render her removal invalid.
  - vi. That the Applicant's suspension and subsequent removal from office as Chief and Justice of the Supreme Court of Ghana are unlawful and violate her right to work under Article 15 of the African Charter.
  - vii. That the Applicant was subjected to undignified and arbitrary treatment in violation of her right to dignity under Article 5 of the African Charter.
  - viii. That the Respondent violated the principle of *lis pendens* by removing her from office while matter was pending before the Court.
  - ix. That the Respondent violated her right to information under Article 9 of the African Charter by failing or refusing to furnish her with a copy of the Report of the Committee.

### B. Reliefs Sought

41. The Applicant requests the Court for the following reliefs:

- i. A declaration that the suspension of the Applicant as the Chief Justice of the Republic of Ghana by the President of the Respondent's State on 22 April 2025 violated the Applicant's human rights to fair hearing guaranteed by Article 7 of the African Charter on Human and Peoples' Rights.
- ii. A declaration that the panel instituted by the Respondent to investigate and determine the allegations of misconduct against the Applicant was not constituted to guarantee its independence and impartiality and, as such, has violated the Applicant's human right to fair hearing guaranteed by Article 7 of the African Charter on Human and Peoples' Rights
- iii. A declaration that the purported suspension of the Applicant as the Chief Justice of the Republic of Ghana by the President of the Respondent State on 22 April 2025 constitutes a violation of her human right to fair equitable, and satisfactory conditions guaranteed by Article 15 of the African Charter on Human and Peoples' Rights.
- iv. A declaration that the purported suspension of the Applicant as the Chief Justice of the Republic of Ghana by the President of the Respondent State on 22 April 2025 has exposed her to public ridicule and odium locally and internationally, and the said act constitutes a violation of her human right to dignity guaranteed by Article 5 of the African Charter on Human and Peoples' Rights.
- v. A declaration that by subjecting the Applicant to an illegal and an unfair investigation, the Respondent has inflicted injuries on her professional standing and image, thereby exposing her and her family to immeasurable public ridicule contrary to Article 5 of the African Charter on Human and Peoples' Rights.



- vi. A declaration that the purported removal of the Applicant as Chief Justice of the Respondent violates her human rights to fair hearing and work guaranteed by articles 7 and 15 of the African Charter on Human and Peoples' Rights.
- vii. A declaration that the refusal of the Respondent to give the report which formed the President's prima facie determination and the report of the Committee which investigated the Applicant to her constitutes a violation of Article 9 of the African Charter on Human and Peoples' Rights.
- viii. An order directing the Respondent to immediately lift the removal and restore the Applicant to the office of the Chief Justice forthwith.
- ix. An order directing the Respondent to immediately lift the removal and restore the Applicant as a Justice of the Supreme Court of Ghana forthwith.
- x. An order directing the Respondent to make available to the Applicant the report which formed the President's prima facie determination and the report of the Committee which investigated the petitions against her.
- xi. An order award of USD 10,000,000.00 (Ten Million Dollars) as compensation for moral and reputational damages suffered by the Applicant.
- xii. Any other relief(s) as the Honourable Court deemed just.

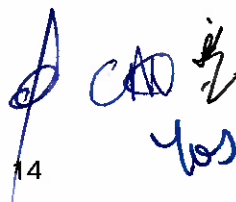
## VI. RESPONDENT'S CASE

42. The Respondent admits that the Applicant was, at the commencement of these proceedings, the Chief Justice of the Republic of Ghana. The Respondent says

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that following the receipt of three petitions seeking the Applicant's removal from office, the President, in accordance with Article 146 of the Constitution, referred the petitions to the Council of State on 24 March 2025 for consultation.

43. According to the Respondent, the Applicant was furnished with copies of the petitions on 28 March 2025 and submitted her responses on 4 April 2025. The Respondent maintains that the Applicant was afforded a full and fair opportunity to respond to the allegations before any decision was taken concerning the petitions.
44. The Respondent states that following consultation with the Council of State, the President determined on 22 April 2025 that a *prima facie* case had been established in respect of the petitions. The Respondent says that the determination was made in accordance with the constitutional procedure prescribed for the removal of a Chief Justice and that all persons entitled by law to receive the determination were duly supplied with it.
45. The Respondent further states that, upon the establishment of a *prima facie* case, the President appointed a five-member inquiry committee in accordance with Article 146(6) of the Constitution and suspended the Applicant from performing the functions of Chief Justice pending the outcome of the inquiry.
46. According to the Respondent, the inquiry committee was properly constituted and comprised two Justices of the Supreme Court, including a Chairman, and three persons who were neither members of Parliament, members of the Council of State, nor lawyers. The Respondent says that any challenge concerning the composition of the committee has already been determined by the Supreme Court of Ghana.

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47. The Respondent denies that the Applicant was denied a fair hearing. It says that the Applicant appeared before the inquiry committee, was represented throughout by counsel of her own choosing, actively participated in the proceedings, cross-examined witnesses called against her, and called witnesses in her own defence.
48. The Respondent states that the Applicant instituted no fewer than seven proceedings before the High Court and Supreme Court of Ghana, challenging various aspects of the removal process. According to the Respondent, applications for injunctive relief filed by or on behalf of the Applicant were heard and dismissed by the Supreme Court and were not subsequently reviewed or overturned.
49. The Respondent further states that the inquiry committee completed its work and submitted its Report to the President on 29 August 2025, recommending the Applicant's removal from office. On 1 September 2025, acting pursuant to Article 146(9) of the Constitution and in accordance with the Committee's recommendations, the President issued a Warrant of Removal removing the Applicant from the office of Chief Justice.
50. The Respondent further states that the petitioners in the remaining two petitions formally withdrew their petitions as moot following the success of the first petition and that this occurred in the presence of the Applicant's legal representatives.
51. In relation to the Applicant's complaint concerning access to the inquiry committee's report and proceedings, the Respondent states that copies of the proceedings are obtainable upon request. According to the Respondent, the

Applicant has not made any such request and cannot therefore claim to have been denied access to documents to which she may be entitled.

52. The Respondent denies that the inclusion of the office of Justice of the Supreme Court in the Warrant of Removal was unlawful. It states that the office of Chief Justice is a distinct constitutional office attained by a fresh appointment and that membership of the Supreme Court held by a Chief Justice is *ex officio* and necessarily ceases upon removal from the office of Chief Justice.
53. The Respondent concludes that the removal of the Applicant was undertaken strictly in accordance with the Constitution of Ghana and the applicable jurisprudence, that the Applicant was afforded due process throughout the proceedings, and that the allegations of constitutional and human rights violations are without merit.

#### **A. Pleas in Law**

54. The Respondent submits the following pleas in law:
- i. That the Applicant was afforded every element of a fair process under both the Constitution of Ghana and the African Charter.
  - ii. That the alleged bias or lack of impartiality of the investigative committee has been conclusively determined by the Supreme Court of Ghana and cannot be relitigated.
  - iii. That the Committee's findings were based on the evidence presented and complied with the requirements of Article 146 of the Constitution of Ghana.

- iv. That the right to work is not absolute and that the Applicant's suspension and subsequent removal were done in accordance with Article 146 of the Constitution of Ghana.
- v. That the Applicant was not subjected to any arbitrary or demeaning treatment in violation of her right to dignity under Article 5 of the African Charter.
- vi. That the Respondent did not violate the principle of *lis pendens* as there was no order of the Honourable Court which the Respondent failed to comply with.
- vii. That the Respondent has not violated the Applicant's right to information, as she has not made a request for the Committee's report, which has been denied.

### **B. Reliefs Sought**

55. The Respondent requests the Court for the following reliefs:

- i. A declaration that the Application is inadmissible or, in the alternative, without merit, on the ground that the Applicant was afforded a fair hearing in accordance with due process throughout the constitutional removal proceedings.
- ii. A declaration that there has been no violation of the Applicant's right to fair hearing and due process under Article 7 of the African Charter on Human and Peoples' Rights.
- iii. A declaration that there has been no violation of the Applicant's right to information under Article 9 of the African Charter on Human and Peoples' Rights.

- iv. A declaration that there has been no violation of the Applicant's right to dignity and protection from arbitrary treatment under Article 5 of the African Charter on Human and Peoples' Rights.
- v. A declaration that there has been no violation of the Applicant's right to work under Article 15 of the African Charter on Human and Peoples' Rights.
- vi. An order dismissing the Application in its entirety.

## **VII. JURISDICTION OF THE COURT AND ADMISSIBILITY OF THE APPLICATION**

56. The Court affirms its jurisdiction and the admissibility of the Application, consistent with Ruling No. ECW/CCJ/RUL/04/25 delivered on 19 November 2024. The Court notes, however, that certain jurisdictional and admissibility issues contained in the Application, particularly those introduced in the Applicant's Amended Application filed on 18 December 2025, were not exclusively of a preliminary character but were intertwined with the merits of the case. Accordingly, the Court will address those issues together with the merits in the present Judgment.

## **VIII. MERITS**

57. Having regard to the pleadings of the Applicant, including the reliefs sought, the Court notes that there are seven substantive claims which the Court is required to determine, namely:
- i. That the Applicant was denied the right to fair hearing under Article 7 of the African Charter in the President's determination of a *prima facie* case and before the Committee appointed to determine the petitions against the Applicant.



- ii. That contrary to Article 7 of the African Charter, the Committee set up to determine the petitions against the Applicant was not a competent and impartial tribunal.
- iii. That the findings of the Committee, which formed the basis of the Applicant's removal from office, were not supported by the evidence and therefore renders her removal invalid.
- iv. That the Applicant's suspension and subsequent removal from office as Chief Justice and Justice of the Supreme Court of Ghana are unlawful and violate her right to work under Article 15 of the African Charter.
- v. That the Applicant was subjected to undignified and arbitrary treatment in violation of her right to dignity under Article 5 of the African Charter.
- vi. That the Respondent violated the principle of *lis pendens* by removing her from office while the matter was pending before this Court.
- vii. That the Respondent violated the Applicant's right to information under Article 9 of the African Charter by failing or refusing to furnish her with a copy of the Report of the Committee.

58. The Court will address each of these claims in turn.

**A. Alleged Violation of the Applicant's Right to Fair Hearing**  
*Submissions of the Applicant*

59. On this issue, the Applicant submits that the initiation of consultation with the Council of State before she was notified of the existence of the petitions against her, and invited to comment on them, violated her right to a fair hearing under Article 7 of the African Charter and Article 146 of the Constitution of Ghana, which contains safeguards designed to protect judicial independence and security of tenure. She contends that her reaction to the allegations would have enabled the Council of State to advise the President as envisaged by the Constitution of Ghana.

60. Further, the Applicant contends that the *prima facie* determination by the President of Ghana did not include any objective assessment and reasoning despite being a quasi-judicial process. Accordingly, she was not furnished with the basis on which the President concluded that the petitions deserved consideration by a Committee, nor with the particular charges or accusations in the petitions she was required to answer. For these reasons, the Applicant submits that the *prima facie* determination violated her right to a fair hearing.
61. The Applicant further submits that her right to a fair hearing was also violated before the Committee that the President appointed to determine the petitions. According to the Applicant, although her legal counsel had communicated with the Committee and had been served with a hearing notice, the Committee excluded him from arrangements concerning the hearing on 15 May 2025 solely because the Applicant was not personally present. She argues that the committee subsequently refused to recognise her counsel and proceeded to schedule further hearings without his involvement. This conduct compelled her to institute proceedings in the Supreme Court on 21 May 2025, challenging the constitutionality of the actions taken against her by the Committee. However, despite being served with the relevant court processes, including an application for interlocutory injunction, the committee resolved to continue its proceedings.
62. Finally, the Applicant contends that the Committee improperly elected to conduct the proceedings as ordinary civil litigation under the High Court (Civil Procedure) Rules, 2004 (C.I. 47), rather than as an inquiry under Article 146(7) of the Constitution and the Commissions of Inquiry (Practice and Procedure) Rules, 2010 (C.I. 65). She further argues that the committee unlawfully permitted the petitioners to rely on other witnesses without first giving evidence themselves, thereby denying her the opportunity to cross-examine the petitioners and rendering the petitions improperly admitted into evidence.

*Submissions of the Respondent*

63. The Respondent submits that the Applicant was afforded a fair hearing consistent with Article 7(1) of the African Charter and the Constitution of Ghana. She was duly notified of the petitions, supplied with copies of all three petitions, given opportunity to respond in writing, and represented throughout the inquiry by counsel of her choice. It contends that, assessed as a whole, the proceedings met the requirements of fairness.
64. Respondent further submits that the Applicant's allegation that she was excluded from the proceedings is untrue, as the record shows the issue relates only to the first day of sitting, where she is said to have refused to attend, and she was in any event, represented by counsel throughout. It maintains that she was not denied participation or excluded from the inquiry at any stage. Accordingly, there was no breach of fair hearing.
65. Respondent also contends that the inquiry committee was constitutionally empowered under Article 146 to regulate its own procedure and was not bound by the Commission's Rules of Inquiry. It submits that the adoption of alternative procedural rules was within the committee's constitutional discretion. No illegality or unfairness arises from the procedure adopted.
66. Respondent further submits that the complaint on cross-examination is unfounded, as petitioners were not required to testify and parties are not obliged to give evidence in such proceedings. It argues that the Applicant cross-examined all witnesses who testified and was fully able to challenge the evidence against her. There was therefore no denial of fair hearing.
67. Finally, Respondent contends that the *prima facie* determination was a preliminary threshold assessment and not a final decision requiring detailed

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reasons. It merely determined whether the petitions disclosed sufficient grounds to warrant an inquiry. It therefore did not constitute a violation of any of the Applicant's rights.

*Analysis of the Court*

68. The Court begins by recalling Article 7(1) of the African Charter which provides:

Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.

69. Regarding the meaning and scope of application of Article 7 of the African Charter, the Court noted in *Al-Hassan Fadia v Togolese Republic* [ECW/CCJ/JUD/17/24] (para 79) "the right to a fair trial is a compendium of rights consisting of various substantive and procedural guarantees aimed at ensuring that the life, liberty, property, or other fundamental rights of the individual are not curtailed without a lawful, fair, and impartial legal process." And further, that these "protections apply not only in criminal proceedings, but also in other proceedings involving the determination of a person's rights and obligations". (*Ibid*; see also *Kessei Menveinoyou v Togolese Republic* [ECW/CCJ/JUD/34/24], para 40).

70. In its recent decision in *Kolawole Koiki v Federal Republic of Nigeria* [ECW/CCJ/JUD/45/25] (para 49) the Court further clarified that "at the national level, the bodies to which Article 7 of the African Charter apply are not just the regular courts exercising criminal or civil jurisdiction, but any other state institution, whether permanent or *ad hoc*, charged with the determination of the rights or obligations of individuals."

71. Similarly, in *Justice Thomas Masuku v The Kingdom of Swaziland* (ACHPR, Comm No. 444/13), where the complainant, a judge, invoked Article 7 of the African Charter to challenge the disciplinary proceedings instituted against him by the Judicial Service Commission of Swaziland, the African Commission held that the right to a fair hearing applied in all proceedings whether administrative, civil, criminal or military involving the determination of the rights or obligation of an individual.

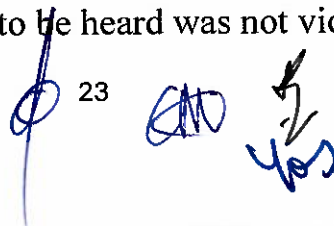
72. Having set out the broad strokes of the right to a fair hearing under Article 7 of the African Charter, the Court now turns to the specific question of whether the Applicant's right to a fair hearing was violated during the *prima facie* determination by the President of Ghana in respect of the petitions against the Applicant, and before the Committee that was appointed to inquire into the petitions.

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73. The Applicant says that the first time she heard that the President of Ghana had been petitioned for her removal was in the news and on social media, when the Spokesperson of the President put out a press statement that the President had begun the constitutionally required consultations with the Council of State in respect of the petitions. The Applicant's complaint is that the President did not notify her of the petitions before beginning the consultations. She had to personally write to request copies of the petitions to enable her to provide a response. This, according to the Applicant, violated her right to be heard in the *prima facie* determination.

74. The Respondent disagrees and says that the *prima facie* determination is a filtering process which does not necessarily require a hearing. But in any event, the Applicant was provided with copies of the petitions to which she provided a response. Accordingly, her right to be heard was not violated.

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75. The Court begins by noting that it is not readily apparent from Article 146 of the Constitution of Ghana, on which both parties rely, that a *prima facie* determination is required in proceedings for the removal of a Chief Justice. Neither party directly addressed this point, notwithstanding the principle that, before international courts, national law is generally treated as a matter of fact, the content of which may be established through evidence furnished in the parties' pleadings. (See *Certain German Interests in Polish Upper Silesia (Merits) (Germany v Poland)*, PCIJ Series A, No. 7, p. 19 (para 52); and *Brazilian Loans Case (France v Brazil)* PCIJ Series A, No. 21, p. 124)
76. Be that as it may, the parties' submissions, particularly those of the Applicant as read with the annexes thereto, suggest that the Supreme Court of Ghana has interpreted Article 146 of the Constitution as requiring a *prima facie* determination in petitions seeking the removal of a Chief Justice. In any event, since both parties, especially the Respondent, proceed on the basis that such a determination is required, the Court considers this point to be settled under Ghanaian constitutional law. Accordingly, there is no dispute between the parties regarding the requirement for a *prima facie* determination as such. Rather, the real issue, which the Court now addresses, is whether the Applicant's right to a fair hearing under Article 7 of the African Charter was violated by the President of Ghana during the conduct of that *prima facie* determination.
77. The Court notes that the component of the right to fair hearing implicated is the universally recognised *audi alteram partem* rule, the principle that a person against whom certain charges or accusations have been made must be given sufficient notice of the charges and afforded the opportunity and facilities to present a defence. This is encapsulated in Article 7(1)(c) of the African Charter as "the right to defence" and includes the right to be defended by counsel.

78. In determining whether a person's right to be heard under Article 7 of the African Charter has been violated, the Court considers that, first of all, it is important to ascertain the critical stage in the legal, judicial, or other process for the determination of the rights or obligations of the individual at which the right to be heard can be said to have crystallised. It is only once this critical point has been identified that a proper assessment can be made of whether, and to what extent, the individual concerned has been heard.
79. In the Court's view, such a critical stage will generally be when a complaint (whether civil, criminal, or disciplinary in nature) has been formally presented to the competent person or body with the power to make a determination carrying legal consequences for the rights or obligations of the individual concerned.
80. In the present case, the Court observes that the body that was legally competent to determine the petitions against the Applicant and render a determination or decision with legal consequences for her rights and obligations was the five-member Committee established under Article 146 of the Constitution of Ghana. The President was required to act in accordance with the Committee's recommendation. Accordingly, the Court considers that, strictly speaking, the stage at which the Applicant's right to be heard crystallised was when the Committee was constituted, and the petitions were referred to it for determination.
81. The Court recognises that the Respondent is at liberty to guarantee broader rights to be heard under its national law. This may include a right to be heard during the determination of whether a *prima facie* case has been established in respect of a petition against a judge under the Constitution. However, insofar as Article 7 of the African Charter is concerned, the Court considers that the Respondent's obligation to afford the Applicant an opportunity to be heard arose



at the critical stage when the Committee was constituted and the petitions were formally referred to it for determination, as it was at that stage that the Applicant was placed in legal jeopardy.

82. Nevertheless, the Court observes that based on the Applicant's own admission, she was provided with copies of the petitions and submitted written responses to them before the President's consultation with the Council of State and the *prima facie* determination were concluded. Thus, even if the Applicant were entitled under Article 7(1) of the African Charter to be heard during the *prima facie* stage, which serves merely as a filtering mechanism and not as the actual hearing of the petitions, the Court considers that the Respondent fulfilled this obligation by affording the Applicant an opportunity to submit written responses to the petitions. Accordingly, the Court finds that the Respondent did not violate the Applicant's right to be heard during the President's consultation with the Council of State and his determination of whether a *prima facie* case existed in respect of the petitions against the Applicant.

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83. Regarding the issue of whether the failure of the President to provide a reasoned decision or analysis in support of the *prima facie* determination violates the Applicant's right to a fair hearing, the Court reiterates its earlier observation that the *prima facie* determination is a filtering mechanism established under the Respondent's law, rather than a judicial or quasi-judicial determination of the rights or obligations of an individual to which the guarantees of Article 7 of the African Charter, including the right to a reasoned decision, apply. Accordingly, the question whether the President is required to provide a reasoned decision for the *prima facie* determination is not a requirement under Article 7 but a matter to be determined under Ghanaian law and by the courts of Ghana, which the Applicant remains at liberty to approach.



84. In view of this, and having regard to the fact that the roles of the President and the Council of State at that filtering stage are administrative and deliberative rather than judicial or quasi-judicial, the Court considers that the failure to provide the Applicant with a reasoned decision for the *prima facie* determination does not violate her right to a fair hearing, including the right to a reasoned decision, under Article 7 of the African Charter.

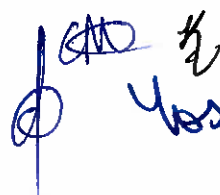
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85. The Court now turns to the Applicant's allegation of irregularities in the conduct of the Committee's proceedings, specifically, the claim that on 15 May 2025, her lawyer was excluded from participating in the proceedings due to her absence.

86. According to the Applicant, notwithstanding prior correspondence exchanged between her counsel and the Committee, her counsel was excluded from participating in the initial meeting where important procedural decisions were taken, including whether the petitioners will testify. This, she alleges, constitutes a violation of her right to be heard.

87. The Respondent denies these allegations and maintains that the Applicant was afforded a fair hearing throughout the process. It contends that the Applicant voluntarily failed to attend the Committee's initial sitting and that her counsel was not unlawfully excluded from the proceedings.

88. From the pleadings of both parties, the Court notes that, on the first day of the Committee's sitting, which was convened to organise its work schedule, there appears to have been a misunderstanding between the Applicant's lawyers and the Committee as to whether the Applicant was required to attend in person to confirm that they were duly authorised to represent her.

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89. Additionally, the record of proceedings (Annexure “GST B” of the Applicant’s Reply) indicates that the Applicant communicated that she would not attend because she was uncertain whether the notice convening the meeting had emanated from the Committee itself.
90. The Court has carefully examined the said record and finds that it does not support the Applicant’s characterization of events. The Court observes that at the time when the Committee sought the Applicant’s counsel’s concurrence on matters relating to the conduct of the proceedings on behalf of the Applicant, and asked **“whether he can bind the Respondent as to procedure to be adopted”**, counsel expressly declined to provide such approval, stating: **“My Lord, I cannot.”** (See page 18 of Annexure GST B). In the Court’s view, these exchanges demonstrate not an exclusion of the Applicant or her counsel from the proceedings, but rather an unwillingness on the part of her counsel to participate in the discussions at that stage.
91. The Court recalls that the right to defence is a fundamental component of the right to a fair hearing guaranteed under Article 7(1) of the African Charter. Specifically, Article 7(1)(c) provides that every individual shall have the right to have their cause heard, including the right to defence and to be represented by counsel of their choice.
92. In interpreting this provision, the Court has consistently held that the right to defence extends beyond the mere freedom to select legal representation. It also encompasses the right of a party to be afforded a genuine and adequate opportunity to prepare, present, and effectively advance their case before the competent authority. See *MONSIEUR MAHAMANE OUSMANE v. REPUBLIC OF NIGER* [ECW/CCJ/JUD/26/22] (PARA 116).



93. From the outset, the Court recalls that the established approach of international human rights bodies in assessing compliance with the fair hearing guarantee is that the fairness of proceedings must be evaluated with reference to the proceedings as a whole, rather than on the basis of isolated procedural incidents. This principle is commonly applied where an Applicant alleges that specific procedural occurrences, such as the admission of allegedly improper evidence, limitations on cross-examination, procedural irregularities, or other perceived defects, rendered the proceedings unfair. In such circumstances, the decisive question is not whether a particular procedural step was imperfect, but whether the proceedings, taken in their entirety, afforded the person concerned a fair and meaningful opportunity to present his or her case and challenge the case against him or her.
94. This “overall fairness” test constitutes a cornerstone of international fair trial jurisprudence. This Court has likewise adopted the same approach in *Muhammad Kabine Ja’Neh v Republic of Liberia* [ECW/CCJ/JUD/28/20], emphasizing that the proper inquiry is whether the proceedings, viewed cumulatively, satisfied the requirements of fairness and due process. See also *Taxquet v. Belgium* (Application No. 926/05, Grand Chamber Judgment of 16 November 2010) and *Al-Khawaja and Tahery v. the United Kingdom* (Applications Nos. 26766/05 and 22228/06, Grand Chamber Judgment of 15 December 2011).
95. A party who, having been duly notified of proceedings, elects not to attend or participate therein cannot subsequently attribute the consequences of that decision to the court, tribunal, or other body conducting the proceedings. The allegation that the Applicant or her counsel were denied participation in the first sitting of the Committee is therefore unsupported by the evidence before the

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Court. In these circumstances, the Court is unable to conclude that the Applicant's right to defence was infringed.

96. Furthermore, apart from the incident with Applicant's counsel during the preparatory meeting of the Committee from which the Court did not find any irregularity, the evidence does not show that the Applicant or her lawyers were prevented in any way from attending subsequent proceedings of the Committee. The Applicant and her lawyers were afforded the opportunity to participate in the hearings and to cross-examine the witnesses who testified against her. She was also given the opportunity to present her own defence through witness testimony, documentary evidence, and legal submissions. The Court therefore considers that, viewed as a whole, the proceedings before the Committee afforded the Applicant a meaningful opportunity to be heard. Accordingly, the Court finds that the Respondent did not violate the Applicant's right to be heard under Article 7(1) of the African Charter in respect of the hearings before the Committee.

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97. Finally, the Court turns to the Applicant's claim that her right to a fair hearing was violated on the basis that the first petitioner did not testify in his own case, thereby depriving her of the opportunity to cross-examine him, and that the Committee applied the High Court (Civil Procedure) Rules, 2004 (C.I. 47) to the proceedings rather than the Commissions of Inquiry (Practice and Procedure) Rules, 2010 (C.I. 65).

98. The Court notes that matters relating to the procedure of national courts or tribunals, and quasi-judicial bodies, as well as the competence or compellability of witnesses to testify, are issues that are primarily regulated by the national laws of Member States. When the Court was confronted with a similar issue



concerning the admissibility and evaluation of evidence by a national court, it observed as follows:

44. While the Applicant invokes the Respondent's human rights obligations under the African Charter and the ICCPR, the specific grounds on which it invites the Court to assess the Respondent's conduct would inevitably require the Court to undertake an appeal-like review of the decision of the Respondent's national court. The Applicant alleges improper admission of evidence, exclusion of evidence it considers probative, insufficient evaluation of certain documentary evidence, inadequate legal reasoning by the national court, and erroneous application of applicable national laws.

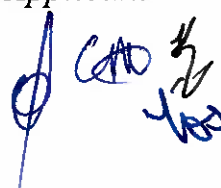
45. Questions concerning the admissibility and probative value of evidence, as well as the standards for its evaluation, are governed primarily by the Respondent's domestic law, including its law of evidence. Moreover, it is the function of the Respondent's national courts, not this Court, to interpret and apply its laws. Accordingly, it is difficult to see how this Court could determine the Applicant's claims without reviewing the factual and legal analysis of the national court and, by extension, without varying the factual and legal conclusions reached by that court. Such an exercise would unquestionably amount to an appellate review of the Respondent's national court decision, which falls outside the proper exercise of this Court's jurisdiction. —PACOBAN v CÔTE D'IVOIRE [ECW/CCJ/JUD/27/26] (PARAS 44-45).

99. Given that issues relating to whether the petitioners ought to have testified, and which rules of procedure should have been applied by the Committee, are matters of Ghanaian law over which this Court has neither original nor appellate jurisdiction, the Court considers that they fall outside its mandate. They are accordingly dismissed.

100. In view of the foregoing, the Court concludes that the Respondent did not violate the Applicant's right to a fair hearing during the proceedings before the Committee within the meaning of Article 7(1) of the African Charter.

***Alleged Lack of Competence and Impartiality of the Committee that Investigated the Applicant***

*Submissions of the Applicant*



101. On this issue, the Applicant submits that the composition of the committee of inquiry was defective. She contends that the Chairman of the Committee, Justice Pwamang, had previously participated in judicial proceedings involving the petitioners and ruled on some of the issues raised in the petitions against her, thereby creating a likelihood of bias. She further argues that another member of the Committee, Justice Asiedu, was disqualified as he was part of a panel of the Supreme Court that heard a case challenging the process to remove her. Accordingly, both members should have recused themselves.

102. The Applicant also submits that the remaining members failed to take the constitutionally required oaths before commencing their duties, rendering the committee improperly constituted and its proceedings unlawful. She therefore contends that the defects in the Committee's composition violated her right to a fair hearing and invalidated the entire process.

*Submissions of the Respondent*

103. The Respondent contends that judicial and quasi-judicial officers enjoy a strong presumption of impartiality, which can only be displaced by clear evidence of actual bias or a real likelihood of bias. That a mere prior judicial involvement with a party, regardless of outcome, is insufficient to disqualify a judge on grounds of bias. Accordingly, the prior adjudication by the Chairman of the Committee, Justice Pwamang, of matters involving some of the petitioners does not constitute a valid ground for disqualification from the Committee, in the absence of proof of actual bias or a real likelihood of bias.

104. The Respondent further submits that the allegation regarding Justice Adibu-Asiedu's participation in an injunction proceedings is unsubstantiated and has already been conclusively rejected by the Supreme Court, in the case of *Vincent Ekow Assafuah v Attorney-General* (Suit No. J1/18/2025) where the Court confirmed that Justice Adibu-Asiedu did not sit on the relevant panel. The

Respondent, therefore, contends that the Applicant cannot relitigate issues already settled by the Supreme Court and that no credible evidence of bias has been established against any member of the committee.

*Analysis of the Court*

105. The Court recalls Article 7(1) of the African Charter, which states in relevant part as follows: “Every individual shall have the right to have his cause heard. This comprises... (d) the right to be tried within a reasonable time by an impartial court or tribunal.”
106. In *Kolawole Koiki v Federal Republic of Nigeria* [ECW/CCJ/JUD/45/25] (para 49), the Court held that “at the national level, the bodies to which Article 7 of the African Charter apply are not just the regular courts exercising criminal or civil jurisdiction, but any other state institution, whether permanent or *ad hoc*, charged with the determination of the rights or obligations of individuals.” It follows that the ad hoc Committee, such as the one appointed to determine the petition against the Applicant, was bound by Article 7 of the African Charter, including the requirement of impartiality.
107. The requirement of impartiality has been defined as the “absence of bias, prejudice, or conflict of interest on the part of a judge, arbitrator, expert, or similar person with respect to the parties appearing before him or her, or with respect to the issue before him or her.” (Jean Salmon (ed), *Dictionnaire de droit international public* (Bruxelles, Bruylant, 2001), p.562; see also *Woyome v Ghana* (merits and reparations) [2019] 3 AfCLR 235, para 126).
108. In its *Principles and Guidelines on Fair Trial and Legal Assistance in Africa* 2003 (Part A, Principle 5), the African Commission on Human and Peoples’ Rights identifies some of the practical contexts in which the impartiality of a

judicial or quasi-judicial body may be deemed to have been compromised. It states that:

The impartiality of a judicial body would be undermined when: (1) a former public prosecutor or legal representative sits as a judicial officer in a case in which he or she prosecuted or represented a party; (2) a judicial official secretly participated in the investigation of a case; (3) a judicial official has some connection with the case or a party to the case; [or] (b) a judicial official sits as member of an appeal tribunal in a case which he or she decided or participated in a lower judicial body.

109. In this case, the Court notes that the first ground on which the Applicant challenges the impartiality of the Committee is that its Chairman, Justice Pwamang, had previously participated in proceedings involving some of the petitioners and that some of the allegations levelled against the Applicant are linked to those cases. While the Court agrees that, generally, a judge's prior connection with a case or party may give rise to a fear of bias or lack of impartiality, such a fear must be objectively justified. To be justified, it is not sufficient that the judge has previously decided a case involving one or more of the parties; it must also be shown that, in the subsequent case in which the judge's impartiality is impugned, the issue to be determined is the same as, or substantially similar to, the issue in the earlier case. Without this caveat, the judiciary in any State would be incapacitated, as judges may, in the course of their careers, decide multiple cases involving the same person or entity.

110. In *Morel v. France* [ECtHR, App No. 34130/96], the European Court of Human Rights had to determine whether a national judge's impartiality had been compromised where he sat on a panel in a commercial court to decide a case involving a company, after having previously made certain orders concerning that company in pre-trial insolvency proceedings. On the general principles governing situations in which a judge performs dual functions in relation to a case involving a party, the Court noted (at para 45) that:

[T]he mere fact that a judge has already taken pre-trial decisions cannot by itself be regarded as justifying concerns about his impartiality. What matters is the



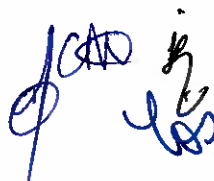
scope and nature of the measures taken by the judge before the trial. Likewise, the fact that the judge has detailed knowledge of the case file does not entail any prejudice on his part that would prevent his being regarded as impartial when the decision on the merits is taken.”

111. The Court concluded that there was not “any objective grounds for believing that the nature and extent of the insolvency judge’s duties during the observation period (which were intended to ensure the day to day management of the companies) gave rise to any prejudice on the – separate – issue which the Commercial Court had to decide regarding the viability of the applicant’s plan for the companies continued trading at the end of the observation period...” (*Morel v. France*, para 49).

112. It follows that nothing prevents a judge from participating in two or more proceedings involving the same person or entity, where the issues to be decided are different.

113. In the present case, the Applicant stated that Justice Pwamang was a member of the panel in *Daniel Ofori v. Ecobank Ltd & Others* [Civil Motion No. J7/13/2020] and *Republic v. High Court, Sekondi, ex parte Ayamga Akologo* [Suit No. J5/20/2023], while Justice Adibu-Asiedu was a member of the panel in *Alexander Afenyo Markin v. Speaker of Parliament and Attorney General* [Civil Motion No. J1/01/2025]. The Applicant contends that some of the allegations levelled against her by the petitioners are linked to those cases and that, consequently, Justices Pwamang and Adibu-Asiedu were disqualified from serving on the Committee on account of a likelihood of bias.

114. The Court notes that while the Applicant annexed the relevant decisions in *Daniel Ofori v. Ecobank Ltd & Others* and *Alexander Afenyo Markin v. Speaker of Parliament and Attorney General* to her Reply to the Respondent’s Amended Defence, she did not provide copies of the petitions that were allegedly based on those cases. Nor did the Applicant demonstrate the particular issues in those



cases on which Justices Pwamang and Adibu-Asiedu sat that were subsequently incorporated into the petitions.


115. To establish that Justice Pwamang or Justice Adibu-Asiedu was disqualified from sitting on the Committee on account of bias, the Applicant was required to demonstrate that either of them had previously participated in cases involving the Applicant and the petitioners concerning the same or substantially the same issues. However, beyond asserting that Justices Pwamang and Adibu-Asiedu sat on panels with the Applicant in proceedings subsequently referenced in the petitions, the Applicant has not provided sufficient particulars regarding the facts of those cases, the specific role played by the said Justices, the issues determined, or how their participation in those proceedings created a personal interest or predisposition capable of compromising their impartiality in the Committee's proceedings.

116. Indeed, the Applicant has not demonstrated whether the impugned decisions were rendered in favour of, or against, the petitioners, nor has she explained how the conclusions reached therein could reasonably give rise to a conflict of interest in the discharge of the mandate of the two members of the Committee. In the absence of such particulars, the Court is unable to discern any nexus between the prior judicial involvement of the said Justices and the allegation of bias now advanced.

117. The Court recalls that, in human rights adjudication, the burden of proof rests on the party asserting a fact, and such party must adduce sufficient and convincing evidence in support of its allegations. In this regard, the Court held in *FEMI FALANA & ANOR. v. REPUBLIC OF BENIN & 2 ORS.* (2012) CCJELR 1 that: "*The onus of proof is on the party who asserts a fact and who will fail if that fact fails to attain the standard of proof that would persuade the Court to believe the statement of the claim.*"



118. The burden of establishing bias rests upon the party asserting it. Allegations of this nature must be supported by clear, specific and verifiable facts capable of rebutting the strong presumption of impartiality attaching to judicial officers. Yet, no such evidence has been provided in relation to the *Daniel Ofori* and *Alexander Afenyo Markin* cases and the petitions that allegedly sought to relitigate issues arising from those cases. In the absence of such evidence, the Court has no basis upon which to conclude that Justices Pwamang and Adibu-Asiedu were disqualified from serving on the Committee.
119. With respect to the *Ex parte Ayamga Akologo* case, in which Justice Pwamang was a member of the panel, the Court notes that the Applicant did not provide the ruling or record of proceedings in that case. However, she did annex the Petition of Mr. Ayamga Akologo to her Reply to the Respondent's Amended Defence as "Annex GST F".
120. A review of the petition shows that Mr. Akologo's request for the removal of the Applicant as Chief Justice rested on two principal allegations. First, he alleged, that after delivering a ruling in the *Ex parte Ayamga Akologo* case, in which he appeared as counsel, the Applicant, acting as Chief Justice and president of a panel of the Supreme Court, made derogatory remarks concerning his professional qualifications as a lawyer and that when he responded, the Applicant ordered his arrest and detention in open court. Secondly, he alleged that the Applicant, in her capacity as Chief Justice and supervisor of the Registrar of the Supreme Court, approved the issuance of a falsified report concerning the incident of his arrest and detention.
121. Admittedly, it could be said that Mr. Akologo's petition has some connection to the *Ex parte Ayamga Akologo* case in which Justice Pwamang sat as a member of the panel, together with the Applicant, who was then presiding as Chief



Justice. However, the Court considers that any such connection is, at best, peripheral. The alleged order for Mr. Akologo's arrest and the subsequent alleged falsification of records to conceal the incident were not matters that formed part of the issues determined by the panel of which Justice Pwamang was a member. Rather, these matters appear to have arisen after the panel had delivered its ruling in the *Ex parte Ayamga Akologo* case and concerned the Applicant's distinct role as Chief Justice.

122. Indeed, overall, it has neither been alleged nor established by the Applicant that the *Ex parte Ayamga Akologo* case, or any of the other cases in which Justices Pwamang or Adibu-Asiedu participated, concerned the removal of the Applicant from office for any alleged misconduct or incompetence. Accordingly, it would be far-fetched to suggest that the Chairman of the Committee, Justice Pwamang, or Justice Adibu-Asiedu lacked impartiality or was biased merely because either of them had previously participated as a judge in cases involving some of the petitioners (with different issues) and was subsequently appointed to consider petitions seeking the removal of the Applicant as Chief Justice. The Court therefore finds this ground to be without merit and accordingly dismisses it.

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123. The Court now turns to the claim that another member of the Committee, Justice Adibu-Asiedu, had sat on a panel of the Supreme Court to decide a case involving a challenge to the Applicant's removal and therefore could not be deemed impartial. The relevant case in which Justice Adibu-Asiedu is said to have participated is *Vincent Ekow Assafuah v Attorney General* [Writ No. J1/18/2025]. The Respondent attached the decision in that case to its defence and submitted that Justice Adibu-Asiedu did not participate in the case, as he was not a member of the panel. Having perused the judgment, the Court notes that the Respondent is correct in its assertion. The panel of the Supreme Court

that decided the case did not include Justice Adibu-Asiedu. Accordingly, the Court dismisses the Applicant's claim on this ground as lacking any factual basis.

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124. Finally, the Court turns to the Applicant's claim that the Committee was not a competent tribunal because three members of the Committee who were not judges did not take or subscribe to the required oaths before commencing their duties. On this issue, the Court observes that, while Article 7 of the African Charter requires competent national courts and tribunals to be independent and impartial, the Charter leaves to States Parties matters relating to the composition, competence, and rules of procedure of their national courts and tribunals.

125. Accordingly, the African Court noted in *Woyome v Ghana* (merits and reparations) [2019] 3 AfCLR 235 (para 101) that "the determination on whether a domestic court is competent to hear a matter depends on the legal system of the State concerned. In this regard, domestic courts have the power to interpret the laws and determine their jurisdiction."

126. In this case, it is clear that issues relating to the swearing of oaths by members of judicial or quasi-judicial bodies of the Respondent State and their legal implications are matters governed by the domestic laws of the Respondent. As the Court noted in *PACOBAN v Côte d'Ivoire* [ECW/CCJ/JUD/27/26] (para 45), "it is the function of the Respondent's national courts, not this Court, to interpret and apply its laws." Accordingly, the Court concludes that it is the courts of Ghana that have jurisdiction to interpret and apply the legal requirements relating to the taking of judicial oaths and to determine the legal consequences flowing from them, not this Court. The Applicant's claim on this issue is therefore dismissed.

***Alleged Lack of Evidentiary Basis for the Findings of the Committee that Investigated the Applicant***

*Submissions of the Applicant*

127. On this issue, the Applicant makes three main submissions. First, the Applicant contends that the Committee's finding that she unjustifiably expended public funds on her spouse's vacations was a sham because the expenditure was incurred pursuant to her approved entitlements and established Judicial Service policy. She argues that the expenditure had already been audited and accepted as lawful by the Auditor-General, who alone has constitutional authority to make findings of financial wrongdoing. The Applicant further submits that she was not the spending officer of the Judicial Service and that the Committee's finding was unsupported by law, fact, and the evidence before it.
128. Secondly, the Applicant contends that the finding that her transfer of a Judicial Service staff member amounted to misbehaviour was a sham because the transfer of staff falls within her constitutional responsibility to administer the Judiciary. She argues that transfers are routine administrative measures and do not constitute punishment or misconduct. The Applicant further submits that it was arbitrary to recommend her removal on this basis, particularly where the affected staff member had made no complaint.
129. Thirdly, the Applicant submits that the Committee's finding that her recommendation of certain Court of Appeal Justices for appointment to the Supreme Court amounted to misbehaviour was unconstitutional and perverse because it arose from the exercise of her constitutional functions as Chief Justice. She argues that the recommendations were made transparently, were consistent with established constitutional practice, and were not binding on the President. The Applicant further submits that the constitutional appointment process remained intact and was not prejudiced by her actions.



130. Finally, the Applicant contends that a pollster with links to the ruling party published a poll in which he stated that the Applicant was so unpopular as Chief Justice that she had to be removed. Additionally, there were media leaks of the documents related to the proceedings and extensive public commentary, all of which were prejudicial to her and undermined the integrity and fairness of the inquiry. She argues that the resulting publicity amounted to a media trial that rendered a fair hearing impossible.

*Submissions of the Respondent*

131. The Respondent submits that the Committee's findings were based on evidence and fell squarely within its constitutional mandate under Article 146 of the 1992 Constitution of Ghana. It contends that the Applicant was present throughout the proceedings, represented by counsel, and afforded full opportunity to lead evidence and challenge the petitioners' case. Accordingly, the allegation that the findings were shams is unsubstantiated, and the removal process was valid and properly grounded in the committee's recommendation.

132. Respondent further denies that the removal process was influenced by any opinion poll or external commentary regarding the Applicant's popularity. It submits that there is no connection between such a poll and the Committee's decision, which was based strictly on the evidence before it. It therefore characterises the Applicant's allegation as unsupported and intended to discredit the integrity of the process.

*Analysis of the Court*

133. On this issue, the Applicant's contentions regarding the Committee's evaluation of evidence and findings may be summed up as follows:

- i. that Committee's finding that she unjustifiably expended public funds on her spouse's vacations was a sham because the expenditure

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was incurred pursuant to her approved entitlements and established Judicial Service policy;

- ii. that the finding that her transfer of a Judicial Service staff member amounted to misbehaviour was a sham because the transfer of staff falls within her constitutional responsibility to administer the Judiciary;
- iii. that the Committee's finding that her recommendation of certain Court of Appeal Justices for appointment to the Supreme Court amounted to misbehaviour was unconstitutional and perverse because it arose from the exercise of her constitutional functions as Chief Justice; and
- iv. that there was a politically motivated opinion poll, document leaks, and media discussions, all of which prejudiced the fairness of the hearing and ultimately the findings.

134. The Court notes that, while it may assess the compliance of the decision of a national court or quasi-judicial body with the requirements of a fair trial under Article 7 of the African Charter, the particular grounds on which the Applicant invites it to do so in the present case warrant caution. The grounds advanced would inevitably require the Court to undertake an appeal-like review of the Committee's findings. The Applicant's claims implicate the admissibility and probative value of some of the key evidence adduced before the Committee, as well as the standards applied by the Committee in their evaluation. They also implicate important principles of the Respondent's constitutional law and the extent to which the Committee correctly interpreted and applied them.

135. The Court has maintained a longstanding position that it is "neither a Court of Appeal nor a court of Cassation of the National Courts as it cannot reappraise the decisions of National Courts of Member States, in order to confirm or revoke



those sentences..... However, this Court has the jurisdiction to review the decisions of Courts of Member States when it comes to determining whether or not they have violated human rights”. ECW/CCJ/JUD/12/2020 AJAMI YASMINE MARIE JEANNE v REPUBLIC OF COTE D’IVOIRE @ Pg 28 and 29.

136. In that regards, the allegation of the violation of the right to fair hearing by the Applicant having earlier been dismissed supra, the court is precluded from reviewing the committee’s work.

137. Consistent with this principles, the Court has declined to determine claims or matters that “inevitably require the Court to review [a] national court decision, including by interpreting or applying national laws upon which it was decided, and to issue orders directly reversing or varying such national court decision.” (*Incorporated Trustees of Centre for Peace and Conflict Management in Africa and Rethink Africa Foundation (on behalf of Vincent Ogueri) v Federal Republic of Nigeria* [ECW/CCJ/RUL/05/24], para 47).

138. While the Committee whose decision the Applicant challenges is not a court, it is nevertheless a quasi-judicial body whose findings and determinations have binding effect under the Respondent’s Constitution. Accordingly, the Court must apply to it the same principle it applies to national court decisions.

139. It is difficult to see how the Court may determine the Applicant’s claims without reviewing the Committee’s factual and legal analysis, including those relating to the constitutional law of Ghana and, by extension, without varying the factual and legal conclusions reached by the Committee. Such an exercise would undoubtedly amount to an appellate review of the decision of a quasi-judicial body of the Respondent, which without falling within the recognised exception is outside the proper exercise of this Court’s jurisdiction.



140. Further, by the Applicant's own admission, she is yet to receive a copy of the Committee's Report containing the full factual and legal assessments and findings made by the Committee. It follows that, at this stage, the Applicant's claims concerning the findings may be regarded as speculative, as the full context of the Committee's Report may render her assertions inaccurate. In view of these concerns, and the fact that the Court has no power to undertake appellate review of judicial or quasi-judicial decisions of Member States, the Applicant's claim that the Committee's findings were not supported by evidence or were contrary to the Respondent's Constitution is dismissed.

***Alleged Violation of the Applicant's Right to Work due to Her Suspension and Removal from Office as Chief Justice and Justice of the Supreme Court of Ghana***

*Submissions of the Applicant*

141. On this issue, the Applicant makes three main submissions. First, she contends that her suspension was unlawful and a violation of her right to work, as she was not properly heard before the President made a prima facie determination on the petitions against her. She further argues that no reasons were provided to support the prima facie determination or her suspension based on that determination.

142. Secondly, the Applicant contends that her removal as a Justice of the Supreme Court was unlawful because the Committee was only constituted to investigate petitions relating to her role as Chief Justice, yet she was removed from both offices without any petition, hearing, or inquiry into her conduct as a Supreme Court Justice. She argues that no separate committee was established and no due process was followed in relation to her removal as a Justice of the Supreme Court, as she was never questioned or heard on that aspect. The Applicant submits that this amounted to a flagrant breach of fair hearing and due process, rendering the purported removal void.

143. Finally, the Applicant contends that her removal as Chief Justice was also illegal because the Committee had not concluded its work on all three petitions before her dismissal, and in fact, only one petition had been substantially considered. She argues that the process was rushed, procedurally defective, and ultra vires, resulting in a decision taken without full investigation and without affording her a proper opportunity to be heard. The Applicant submits that these cumulative irregularities demonstrate arbitrariness, bias, and a sham process that violated her rights, including her right to work under Article 15 of the African Charter.

*Submissions of the Respondent*

144. The Respondent submits that the right to work under Article 15 of the African Charter is not absolute and may be limited by lawful procedures for removal. Accordingly, a suspension or removal pursuant to such processes do not, in themselves, amount to a violation of the right to work as held in *Paul Uter Dery v Ghana* [ECW/CCJ/JUD/17/19]. In the present case, the Respondent contends that the removal of the Applicant was carried out in accordance with Article 146(9) of the Constitution of Ghana, based on the recommendation of a duly constituted committee.

145. Respondent also submits that the Applicant's reliance on *Muhammad Kabine Ja'Neh v Republic of Liberia* [ECW/CCJ/JUD/28/20] is misplaced, as the present case is distinguishable on its facts. It contends that, unlike the *Ja'Neh* case, there was a properly constituted committee, the Applicant was duly notified of the charges, fully participated in the proceedings, and was represented by counsel throughout. The Respondent therefore maintains that all procedural safeguards were satisfied in the removal of the Applicant.

146. Regarding the Applicant's removal from office as a Justice of the Supreme Court, Respondent submits that the Applicant's contention that she could not be



removed from that position without a separate inquiry is misconceived. It argues that the Applicant's membership of other superior courts flows *ex officio* from her office as Chief Justice. Accordingly, once she is removed as Chief Justice, her membership of those courts automatically comes to an end without the need for a separate process.

147. Finally, on the Applicant's claim that she was unlawfully removed after the Committee heard only one of the three petitions, the Respondent submits that, following the success of the first petition, the other two petitioners withdrew their petitions, rendering any further proceedings moot.

#### *Analysis of the Court*

148. The Court begins by first addressing the Applicant's claim that her suspension from office as Chief Justice pending the hearing of the petitions against her by the Committee violated her right to work. In *Peter Uter Dery v Republic of Ghana*, [ECW/CCJ/JUD/17/19] (paras 42-44), the Court held that suspension, which is an administrative procedure of temporarily relieving an officer of their functions to enable fair and transparent investigations into alleged misconduct devoid of undue influence from the affected officer, does not constitute a violation of the right to work. See also *Melville Roberts v The Gambia* [ECW/CCJ/JUD/43/24] (para 44) where the Court held as follows:

[T]he interdiction or suspension of an employee from their duties pending investigations into alleged misconduct is neither an unusual nor an unreasonable action by an employer. Such measures protect the employer's brand image and other interests while allowing the employee the time and resources needed to prepare and defend themselves during the inquiry or investigation. Therefore, in the absence of proof of victimisation or prejudice, the interdiction or suspension of an employee pending investigations into misconduct cannot be said to violate the employee's right to work, right to equality, or right to be presumed innocent.

149. In the light of these principles, and in the absence of any evidence that the Applicant's suspension was motivated by prejudice or ill will, the Court

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concludes that the Applicant's right to work was not violated when she was suspended pending the determination of the petitions by the Committee.

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150. The Court now turns to the Applicant's claim that her subsequent dismissal based on the recommendations of the Committee violated her right to work under Article 15 of the African Charter.

151. The Court begins by recalling that Article 15 of the African Charter generally imposes a positive obligation on States Parties to implement measures to ensure that individuals are able to earn a living, under equitable and satisfactory conditions, through work that they freely choose and accept. (See *Algom Resources Ltd v Sierra Leone* [ECW/CCJ/JUD/03/23], paras 111-112). Nevertheless, the Court has had occasion to observe that the right to work also has "a negative obligation component which requires states to refrain from measures that may impair individuals' right to work or make a living." (*Algom Resources*, para 112). Similarly, in its *General Comment No 18 (2005): The Right to Work (Article 6 of the ICESCR)*, the Committee on Economic, Social and Cultural Rights recognizes that the normative content of the right to work includes "the right not to be unfairly deprived of employment."

152. Consistent with this approach, the Court has held that actions of a Member State that results in the unfair or arbitrary dismissal of an individual from their employment violate their right to work. Accordingly, in *Peter Uuter Dery v Republic of Ghana* [ECW/CCJ/JUD/17/19] (para 82), the Court noted that a violation of the right to work entails "severance from work which permanently deprives the employee of the job under [a] condition that is manifestly unfair."

153. Similarly, in *Aircraftwoman Beauty Igbobie Uzezi v Federal Republic of Nigeria* [ECW/CCJ/JUD/11/21] (para 136), the Court held that the right to work does not mean that the State must provide employment to all citizens on demand, but it requires that the State must not unfairly deprive individuals of jobs they already have.
154. In light of these principles, the key question the Court must resolve in this case is whether the Applicant was unfairly or arbitrarily dismissed from her role as Chief Justice and Justice of the Supreme Court of Ghana. The Court notes that a dismissal would be unfair or arbitrary if it is effected without due process of law. Accordingly, in *Kamana Piyabalo v Togolese Republic* [ECW/CCJ/JUD/20/26] where the Applicant, a corporal in the army, was summarily dismissed by a decision of the Minister of Defence for alleged stealing of a weapon, the Court held that the Respondent violated the Applicant's right to work because the Minister's Decision did not "reference any specific charge which was levelled against the Applicant, nor [did] it indicate that he was subjected to any criminal or disciplinary proceedings for which he was convicted or found guilty." (*Kamana Piyabalo*, para 59).
155. By contrast, in the present case, petitions were submitted against the Applicant, which were duly transmitted to her, and to which she provided written responses. As required under the Respondent's constitutional law, the President and the Council of State determined, after consultations, that there was a *prima facie* case for the Applicant to answer. A Committee was then established before whom the Applicant was afforded the opportunity to appear and present her defence to the accusations levelled against her. It was on the basis of the findings and recommendations of the Committee that the Applicant was dismissed from office.



156. Having regard to these facts, and the Court's earlier conclusion that the Applicant's right to a fair hearing was not violated before the Committee, the Court concludes that the Applicant was not unfairly or arbitrarily dismissed from office as Chief Justice of Ghana. Accordingly, the Respondent did not violate her right to work.

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157. Regarding the Applicant's claim that her consequential removal from office as a Justice of the Supreme Court is unlawful and violates her right to work, the Court notes that based on Articles 125, 128, 144 and 146 of the Constitution of Ghana, upon which both parties relied, the office of Chief Justice is *sui generis*. The holder of that office serves both as the administrative head of the Judiciary and as a Justice of the Supreme Court exercising judicial functions. These roles are inseparable and subsist concurrently for as long as the holder remains in office. This is unlike other judicial contexts, particularly international courts, where the President of the Court is ordinarily an existing member elected or appointed for a fixed term to administer the Court and thereafter resumes his or her position as an ordinary member.

158. Instead, as the Respondent argued, the unique character of the office of Chief Justice of Ghana requires a fresh appointment entailing parliamentary approval and the issuance of a separate instrument of appointment, even where the appointee is already a Justice of the Supreme Court. Once appointed, the officeholder occupies a single position as Chief Justice that includes membership of the Supreme Court. In other words, a person appointed to the office of Chief Justice does not retain a separate and independent tenure as a Justice of the Supreme Court. Rather, the two roles become merged in the Chief Justice, who serves simultaneously as the head of the Judiciary and as a member of the Supreme Court. It would seem, therefore, that the removal mechanism



under Article 146 for the Chief Justice cannot reasonably be confined to only one aspect of the office-holder's functions while leaving the other intact.

159. In light of the above, the Court is persuaded by the Respondent's contention that removal from office as Chief Justice would, *ipso facto*, entail removal from office as a Justice of the Supreme Court. Indeed, the Court notes that the Supreme Court of Ghana's decision in *Ghana Bar Association v. Attorney-General and Another* [1995-96] 1 GLR 598, which was cited by the Applicant, supports this conclusion. In that case, the Ghana Bar Association challenged the appointment of the then Chief Justice of Ghana, Justice Abban, on the ground that he lacked the high moral character and proven integrity required by the Constitution. The Association sought an order setting aside his instrument of appointment. The Supreme Court of Ghana dismissed the action. In addressing whether an order nullifying Justice Abban's appointment as Chief Justice would also have affected his position as a Justice of the Supreme Court, the Court stated, at pages 655-656, as follows:

Without mincing words, the ultimate result this action is intended to achieve for the plaintiff is the removal of the second defendant as Chief Justice of Ghana, and, as a fallout, a judge of the Supreme Court. The substratum of the plaintiff's case, as we have stated earlier, is that the second defendant is not a man 'of high moral character and proven integrity' to be the Chief Justice; *ipso facto*, a judge of the Supreme Court since the qualifications are admittedly the same. For, if the second defendant is disqualified from occupying the post of Chief Justice on grounds of lack of integrity, I do not see how he can continue to be a judge of the Supreme Court. It will clearly be a contradiction in terms and an ambivalent position to take if one asserts otherwise.

160. Further, the Court observes, that as argued by the Respondent's counsel during the hearing of the Application on 15 May 2026, the Chief Justice of Ghana "**is an ex-officio member not just of the Supreme Court, but... also the Court of Appeal, High Court and all the Courts in the judicial system. This may be confirmed from our Constitution (sic) on the judiciary.**" (Community Court of Justice, Verbatim Record of Proceedings in *Gertrude Araba Esaba*



*Sackey Torkornoo v Republic of Ghana* [ECW/CCJ/APP/32/25], External Court Session, Conakry, 15 May 2026).

161. Indeed, a cursory survey of the chapter of the Constitution dealing with the Judiciary, as suggested by the Respondent's counsel, readily shows that the Chief Justice is also a member of the Court of Appeal, the High Court and the Regional Tribunals of Ghana under Articles 136, 139 and 142, respectively.

162. From the foregoing, the Court considers that the Applicant's contention, if accepted, would lead to an untenable and absurd result. The office of Chief Justice carries with it *ex officio* membership of the Supreme Court and other courts within the judicial structure. Since the Applicant's membership of those courts does not constitute separate and independent tenures from her tenure as Chief Justice, it would be absurd to require separate removal proceedings in respect of her membership of each of those courts after her removal from office as Chief Justice.

163. For these reasons, the Court finds that the Applicant's contention on this issue is without merit, and accordingly dismisses it.

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164. Finally, the Court turns to the Applicant's claim that her removal was irregular, rushed, and unlawful because the Committee heard and submitted a report on only the first petition, instead of all three petitions. The Court notes that by the principle of judicial economy, courts, tribunals, and other judicial bodies (whether national or international) retain a degree of inherent jurisdiction or discretion to manage cases before them in a manner that will ensure efficiency in adjudication, minimize duplication of effort, or avoid wastage of judicial time and resources. (See Sybilla C Fries, "Judicial Economy: Dispute Settlement



System of the World Trade Organization (WTO)”, *Max Planck Encyclopedia of International Procedural Law* 2019).

165. It is common ground between the parties that there were three separate petitions against the Applicant, which the Committee was required to hear and determine. Each of the petitions constituted a different case, albeit before the same body. Consistent with the principle of judicial economy, the Court considers that the Committee retained the discretion to organise its work, including deciding on whether to consolidate the petitions for hearing and present a composite report, or to hear and report separately on each petition. The Committee, in exercise of its discretion, chose the latter option. The Court does not find the Committee’s approach to be unreasonable, irregular, or unlawful.
166. Further, the Court is not persuaded that the non-determination of the two other petitions had any material impact on the validity of the proceedings or occasioned any prejudice to the Applicant’s right to a fair hearing. The Court considers that one petition out of the three, establishing a constitutionally recognized ground for removal, was sufficient to sustain a recommendation for removal from office.
167. Therefore, even if the other two petitions had been heard and had resulted in findings exonerating the Applicant, the decision on the first petition would have remained sacrosanct, and the recommendation for the Applicant’s removal, based on the first petition that was fully heard and determined by the Committee, would still stand.
168. Consequently, the Court, having found that the Committee’s approach was neither unreasonable, irregular, nor unlawful, dismisses the Applicant’s claim on this issue.

***Alleged Violation of the Applicant’s Right to Dignity***



*Submissions of the Applicant*

169. On this issue, the Applicant submits that she was subjected to demeaning and discriminatory treatment during the proceedings, including the exclusion of her husband and children from the hearing room, body searches, and restrictions on the use of mobile phones and laptops. She further argues that the decision to hold the hearings at a high-security facility, the Adu Lodge, rather than in a judicial facility as had been the practice in previous proceedings against judges, undermined the neutrality and decorum expected of such proceedings.
170. The Applicant further submits that the choice of venue, together with the alleged procedural violations, was deliberately calculated to humiliate and psychologically distress her, particularly given the venue's association with the events surrounding the murder of her uncle and three judges in 1981.
171. The Applicant further contends that the removal proceedings, media leaks, public commentary, and extensive discussion surrounding the allegations against her exposed her to public ridicule, odium, and reputational harm both within Ghana and internationally.
172. The Applicant concludes that the reputational harm and emotional distress she suffered amount to a violation of her right to dignity and mental integrity under Article 5 of the African Charter. And further, that the degrading conditions of the proceedings, including surveillance-like restrictions and security harassment, infringed her dignity and bodily integrity.

*Submissions of the Respondent*

173. The Respondent denies that the Applicant was subjected to demeaning or discriminatory treatment through body searches, restrictions on electronic



devices, or denial of access to family members. It argues that the security measures applied were standard, uniform, and necessary to preserve the confidentiality and integrity of the proceedings, which are constitutionally mandated to be held *in camera*. The Respondent therefore maintains that these measures were reasonable and proportionate and did not violate the Applicant's dignity.

174. Further, the Respondent denies the Applicant's claim that the choice of Adu Lodge as the venue for the Committee's *in camera* hearings violated the Applicant's rights to dignity or amounted to degrading treatment or mental torture. It submits that the selection of venue was a logistical and security decision taken in light of the confidential nature of the proceedings. As such, the choice of the venue cannot, without more, amount to a violation of the Applicant's rights under the African Charter.

175. On the media exposure, the Respondent rejects these allegations and maintains that the measures taken were not in any way designed to humiliate, degrade, or single out the Applicant. The Respondent states that any public attention generated by the proceedings was an inevitable consequence of the constitutional significance of the office occupied by the Applicant and not the result of any deliberate attempt to expose her to ridicule or odium.

#### *Analysis of the Court*

176. Article 5 of the African Charter provides in relevant part that "[e]very individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status".

177. The Court notes that the right to dignity requires the State to respect the inherent worth of every human person, regardless of their physical condition,



circumstances of birth, social status, or other factors, and to refrain from any acts that detract, or may reasonably detract, from their intrinsic value as human beings. This explains why the second sentence of Article 5 of the African Charter prohibits all forms of exploitation and degradation of people, including “slavery, slave trade, torture, [and] cruel, inhuman or degrading punishment and treatment.”

178. Commenting on Article 5 of the African Charter in *Makungu Misalaba v Tanzania* [Application No. 033/2016] (para 165), the African Court made the following observations about the right to dignity:

The right to dignity captures the very essence of the inherent worth and value that resides within every individual, irrespective of their circumstances, background, or choices. At its core, it embodies and upholds the principle of respect for the intrinsic humanity of each person and forms the bedrock of what it means to be truly human. It is in this sense that Article 5 absolutely prohibits all forms of treatment that undermines the inherent dignity of an individual.

179. In this case, the Applicant complains that she was subjected to heightened security measures, including body searches, before being admitted to the hearing before the Committee; that her immediate family was prevented from attending the proceedings; and that restrictions were imposed on her ability to use her mobile phone and laptop computer. In addition, instead of being conducted in a judicial facility, the hearing was held at a venue that she claims was historically associated with the murder of some judges and her uncle, a military officer, in the early 1980s. She contends that these measures violated her right to dignity because they were intended to humiliate her and cause her mental distress and reputational harm.

180. The Court considers that, generally, ill-treatment intended, among other things, to humiliate, debase, or cause physical or psychological anguish to an individual will violate the right to dignity under Article 5 of the African Charter. However,

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it would be far-fetched to classify reasonable security and administrative measures, or the discomfort and anxiety naturally associated with participation in legal or judicial proceedings, as violations of the right to dignity.

181. The Court notes that, given the confidentiality requirements governing the Committee's proceedings under Article 146 of the Constitution of Ghana, it was reasonable to expect that the hearing would be conducted in a secure location and that certain security protocols would be implemented to ensure that the confidentiality of the proceedings was not compromised. In this regard, the Court is of the view that the security screening, restrictions on the use of electronic devices, and limitations on the participation of the Applicant's family members in the proceedings were reasonable and proportionate measures that cannot be said to have violated the Applicant's dignity.

182. Regarding the choice of venue, the Court notes that the Applicant makes a terse claim linking the venue to the murder of some judges and her uncle in the 1980s, but stops short of asserting that the killings actually took place there. The Applicant has not provided any evidence that her uncle was actually murdered at the venue and that the proceedings were held there for the purposes of retraumatizing or psychologically breaking her. In these circumstances, the Court does not consider that the Applicant's discomfort with the venue, without more, is sufficient to establish a violation of her right to dignity.

183. On the issue of media leaks, the Court notes that the Applicant occupied the highest judicial office in the Republic of Ghana. The suspension, investigation, and eventual removal of a Chief Justice are matters of exceptional constitutional significance and undeniable public interest. In democratic societies governed by the rule of law, questions concerning the accountability, discipline, and tenure



of senior public officials inevitably attract public attention and public discussion.

184. In this regard, the Court considers that the right to dignity must be balanced against the right to freedom of expression guaranteed under Article 9 of the African Charter. The Respondent State bears a dual obligation to protect the dignity of individuals and simultaneously safeguard the public's right to receive information and engage in debate on matters of legitimate public concern. See *MELVILLE ROBERTS v. REPUBLIC OF THE GAMBIA* [ECW/CCJ/JUD/43/24] (PARAS 35-40).

185. The Court notes that individuals occupying positions of public authority inevitably subject themselves to a higher degree of public scrutiny and criticism by virtue of the responsibilities entrusted to them. In a democratic society, robust public debate on matters of public interest, including the conduct of public officials, constitutes an essential component of the right to freedom of expression. Consequently, public officials are expected to display a greater degree of tolerance towards criticism than private individuals, provided that such criticism remains within the bounds permitted by law. See *LINGENS v. AUSTRIA* (Application No. 9815/82); *LOHÉ ISSA KONATÉ v. BURKINA FASO* (Application No. 004/2013).

186. Having reviewed all the facts, the Court is unable to accept the proposition that public debate, media commentary, criticism, or scrutiny arising from proceedings concerning the suspension or removal of a Chief Justice, without more, constitutes a violation of the right to dignity. To hold otherwise would unduly restrict public discourse on matters lying at the heart of constitutional governance, judicial accountability, and democratic oversight.



187. Furthermore, although the Applicant alleges reputational injury and public ridicule, she has not placed before the Court sufficient evidence demonstrating that the Respondent orchestrated a campaign of personal vilification, deliberately disseminated false information, or engaged in conduct specifically intended to humiliate or degrade her. Neither can every media report or public commentary concerning the proceedings be attributed to the Respondent State.

188. The Court therefore finds that the Applicant has failed to establish a causal nexus between the alleged reputational harm and any conduct of the Respondent capable of engaging State responsibility under Article 5 of the African Charter.

189. In light of the foregoing, the Court finds that although the proceedings complained of undoubtedly carried significant professional and personal consequences for the Applicant, the evidence before it does not establish that the conduct of the Respondent amounted to degrading, humiliating, or arbitrary treatment within the meaning of Article 5 of the African Charter. Accordingly, the Applicant has failed to establish that the Respondent violated her right to dignity.

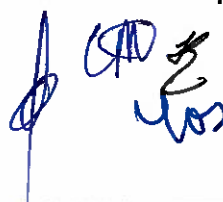
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190. For these reasons, the Court concludes that the Respondent did not violate the Applicant's right to dignity under Article 5 of the African Charter with respect to the venue of the Committee's proceedings and the security and other measures adopted to ensure the confidentiality of the proceedings, as well as the alleged exposure to public ridicule and odium leading to her reputational harm.

***Alleged Violation by the Respondent of the Principle of Lis Pendens***

*Submissions of the Applicant*

191. On this issue, the Applicant submits that the Respondent violated the principle of *lis pendens* by proceeding with her removal from office despite the pendency



of the application and request for interim measures before this Court. In doing so, it undermined the authority and integrity of the Court. The Applicant argues that once a dispute is before a court, the parties are required to allow the judicial process to run its full course rather than resorting to unilateral action.

192. The Applicant further submits that her removal before a final determination was premature and unlawful, as it impaired her ability to function in her constitutional office and undermined her right to be presumed innocent and judicial independence. She also contends that the Respondent's actions violate its obligations under the ECOWAS Protocol of Democracy and Good Governance, which requires the protection of judicial independence and security of tenure.

#### *Submissions of the Respondent*

193. The Respondent denies the Applicant's contention that her removal during the pendency of these proceedings breached the principle of *lis pendens*, amounted to contempt of this Court, or rendered the removal invalid. It submits that the *lis pendens* principle only operates where there is a subsisting court order restraining the impugned action, and no such order was issued by this Court. Accordingly, the Respondent submits that completing the constitutional removal process while the Applicant's request for interim measures was pending did not violate any order of the Court and cannot constitute contempt or violation of the *lis pendens* principle.

#### *Analysis of the Court*

194. The Court recalls that the Applicant filed her Initiating Application on 4 July 2025 together with a request for provisional measures. She sought an order directing the Respondent to suspend the proceedings for her removal as Chief Justice. Although the Court heard the request for provisional measures and the Respondent's objections to jurisdiction and admissibility on 14 July 2025, its



ruling was not delivered until 19 November 2025 when it declined the request for provisional measures.

195. In the meantime, the Committee hearing the petitions against the Applicant submitted its report on the first petition, which formed the basis for the Applicant's removal from office on 1 September 2025.

196. The Court notes that Article 15(4) of the ECOWAS Revised Treaty 1993 provides that judgments of the Court "shall be binding on the Member States, the Institutions of the Community, and on individuals and corporate bodies." Similarly, Article 20(3) of the Protocol of the Court (as amended) provides that the Court's "decisions shall be final and immediately enforceable."

197. With respect to orders for provisional or interim measures, Article 82(1) of the Rules of the Court requires that a decision on a request for provisional measures "shall take the form of a reasoned order" and that "the order shall be served on the parties forthwith." However, pursuant to Article 82(4) of the Rules of the Court, "the order shall have only an interim effect, and shall be without prejudice to the decision of the Court on the substance of the case."

198. From the foregoing, it is clear that Member States are bound by judgments and orders of the Court. The filing of an application before this Court, or the pendency of a request for provisional measures, does not, without more, impose a legal obligation on a Member State to suspend an impugned domestic legal or judicial process, or other governmental function. Accordingly, while it may have been desirable, out of respect for the judicial process, for the Respondent to pause the Committee's proceedings pending the Court's ruling on the Applicant's request for provisional measures, or its decision on the merits, there



was no binding judgment or order of the Court requiring it to do so when the Applicant was removed from office on 1 September 2026.

199. In the absence of any such judgment or order, the Court concludes that the Applicant's removal from office on 1 September 2025 did not violate any obligation binding on the Respondent with respect to the principle of *lis pendens*.

***Alleged Violation of the Applicant's Right to Information***  
***Submissions of the Applicant***

200. On this issue, the Applicant submits that she was not provided with the *prima facie* determination or the reasons supporting it before her suspension and the establishment of the disciplinary committee. She further submits that she has still not been given a copy of the report forming the basis for her removal. The Applicant argues that this denial violates her right to information under Article 9 of the African Charter.

***Submissions of the Respondent***

201. The Respondent submits that Article 9 of the African Charter protects the right of every individual to receive information. However, the right to receive information is not absolute and is subject to reasonable limitations in the interest of national security, public order, or the constitutional requirements of the State. In the present case, the Respondent contends that the right to information does not confer an unqualified right to receive any and all documents generated in the course of a proceeding required by the Constitution to be held in camera.

202. In respect of the *prima facie* determination, the Respondent submits that the Applicant was entitled to the determination (of which she was notified on 22 April 2025) but not a judicial reasoning behind the determination. In respect of the Committee's proceedings and report, the Respondent contends that such



proceedings or reports are supplied upon request; and that the Applicant is yet to make a request for the same.

*Analysis of the Court*

203. The Court recalls Article 9(1) of the African Charter which provides: “Every individual shall have the right to receive information.” Similarly, Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR), to which the Respondent is a party, provides in relevant part that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information.”
204. In *General Comment No 34 (2011): Freedoms of Opinion and Expression (Article 19, ICCPR)*, the Human Rights Committee explains that the right to information “embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production”. (*Ibid*, para 18).
205. In this case, the Applicant seeks access to the reasons for the *prima facie* determination and the Report of the Committee which formed the basis of her removal from office.
206. With respect to the *prima facie* determination, the Court has already concluded that it was not a judicial or quasi-judicial determination of the rights or obligations of an individual required by Article 7 of the African Charter, for which there was an obligation to provide a reasoned decision within the meaning of that provision. Accordingly, the Court finds that the Respondent’s failure to provide the Applicant with a reasoned decision for the *prima facie* determination does not constitute a corresponding breach of its obligations under Article 9 of the African Charter.



207. With respect to the Committee's Report, the Court notes that the Committee was a quasi-judicial body charged with hearing evidence, analysing relevant provisions of the Respondent's Constitution and other laws, and making findings and recommendations with serious legal consequences for the Applicant's rights. The requirement of a fair hearing under Article 7 of the African Charter was therefore applicable to it. (See *Kolawole Koiki v Federal Republic of Nigeria* [ECW/CCJ/JUD/45/25], para 49).

208. In *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal (Advisory Opinion)* [1976] ICJ Reports 166 (para 92), the International Court of Justice held that elements of a fair hearing under international law include "the right to an independent and impartial tribunal established by law; the right to have the case heard and determined within a reasonable time; the right to a reasonable opportunity to present the case to the tribunal and to comment upon the opponent's case; the right to equality in the proceedings vis-à-vis the opponent; and the right to a reasoned decision."

209. Similarly, the African Commission on Human and Peoples' Rights has stated that the essential elements of an individual's right to a fair hearing include "(i) an entitlement to a determination of their rights and obligations without undue delay and with adequate notice of and reasons for the decisions; and (j) an entitlement to an appeal to a higher judicial body." (African Commission, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, 2003, Part A, Principle 2).

210. In light of these principles, the Court considers that the Report of the Committee is analogous to the judgment of a court or tribunal. As a party to the proceedings before the Committee, the Applicant is entitled not only to notice of the



Committee's recommendations, with which she was furnished in the letter communicating her removal from office, but also to a copy of the full Report and other related documents such as the record of proceedings to enable her to exercise any rights of appeal or review that she may have under the laws of the Respondent.

211. Therefore, in order to ensure the effective exercise of her right to seek review or appeal as guaranteed under Article 7 of the African Charter, the Applicant has a corresponding and complementary right under Article 9 of the Charter to receive a copy of the Report.

212. However, the Court recalls that the right to information is not absolute. Its exercise remains subject to reasonable procedural requirements and established legal formalities governing access to official records and documents. Consequently, the mere existence of a document does not automatically impose an obligation on the Respondent to disclose it in the absence of compliance with the applicable procedures for obtaining such information.

213. In the present case, the record establishes that the Committee submitted its report to the President and that the Applicant was subsequently notified of her removal from office. However, no evidence has been placed before the Court demonstrating that the Applicant formally requested a copy of the report and that such a request was denied, ignored, or unreasonably restricted.

214. The Court is mindful that Article 146(8) of the Constitution requires proceedings for the removal of judges to be conducted in camera in the following terms: "*...all proceedings under this article shall be held in camera...*" While confidentiality may justify certain restrictions on the dissemination of documents arising from such proceedings, it cannot permanently shield information directly affecting the rights and legal status of the person concerned



from disclosure. Indeed, where a formal request is made by the subject of the proceedings, any refusal to disclose such information would have to be justified by compelling reasons consistent with the requirements of necessity and proportionality.

215. Nevertheless, the issue before the Court is not whether the Applicant would have been entitled to the report upon request, but whether the Respondent violated Article 9 by failing to furnish the report automatically. The Court is unable to derive from Article 9 an unqualified obligation of unsolicited disclosure. The right to receive information does not, in every instance, entail a duty on public authorities to proactively disclose all information that may be relevant to an individual, absent a request or a specific legal obligation requiring such disclosure.

216. The Court notes that the Applicant has not demonstrated that she made a request for the Report, which was denied despite complying with any reasonable conditions set by the Respondent for its release to her. In the circumstances, the Court concludes that the Applicant has failed to establish that the Respondent violated her right to information under Article 9 of the African Charter in respect of the Committee's Report.

217. In the absence of evidence demonstrating that the Applicant sought access to the report and was denied such access, the Court finds that the allegation of a violation of Article 9 is not substantiated.

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## IX. REPARATIONS

218. In light of the Court's conclusions that the Respondent has not violated any of the Applicant's rights under the African Charter as alleged, the Court makes no decision on reparations.

## X. COSTS

219. Pursuant to Article 66(1) of the Rules of the Court, the Court decides that each party shall bear their own costs.

## XI. OPERATIVE CLAUSE

220. For the foregoing reasons, the Court sitting in public and after hearing the parties:

### *On jurisdiction*

- i. *Declares* that the Court has jurisdiction over the Application.

### *On Admissibility*

- ii. *Finds* that the Application is admissible.

### *On the Merits*

- iii. *Dismisses* the Applicant's claim that she was denied the right to a fair hearing in the President's determination of a *prima facie* case and before the investigative Committee contrary to Article 7 of the African Charter.
- iv. *Dismisses* the Applicant's claim that the Committee set up to determine the petitions against her lacked competence and impartiality within the meaning of Article 7 of the African Charter.



- v. *Dismisses* the Applicant's claim that the findings of the Committee which formed the basis of her removal from office are not supported by the evidence and therefore renders her removal invalid.
- vi. *Dismisses* the Applicant's claim that her suspension and subsequent removal from office as Chief Justice and Justice of the Supreme Court of Ghana are unlawful and violate her right to work under Article 15 of the African Charter.
- vii. *Dismisses* the Applicant's claim that the Respondent subjected her to undignified and arbitrary treatment in violation of her right to dignity under Article 5 of the African Charter.
- viii. *Dismisses* the Applicant's claim that the Respondent violated the principle of *lis pendens* by removing her from office while her Application and request for provisional measures were pending before the Court.
- ix. *Dismisses* the Applicant's claim that the Respondent violated her right to information under Article 9 of the African Charter by failing or refusing to furnish her with a copy of the Report of the Committee.
- x. *Decides* that all other reliefs sought by the parties which have not been herein granted in whole or in part are hereby dismissed.

***On Costs***

- xi. *Decides* that each party shall bear their own costs.

Hon. Justice Sengu Mohamed **KOROMA** - Presiding.....

Hon. Justice Dupe **ATOKI** -Judge Rapporteur.....

Hon. Justice Gberi-Be **OUATTARA** -Member.....

Dr. Yaouza **OURO-SAMA** (Chief Registrar) .....

Done at Abuja this 24<sup>th</sup> day of June 2026 in English and translated into French and Portuguese.

