

Fory & Ors v Côte d'Ivoire (ruling) (2021) 5 AfCLR 616

Application 034/2017, *Kouadio Kobena Fory, Spouse, Sons and Daughters v Republic of Côte d'Ivoire*

Ruling (change of title of Application), 25 November 2021. Done in English and French, the French text being authoritative.

Judges: ABOUD, TCHIKAYA, KIOKO, BEN ACHOUR, MENGUE, MUKAMULISA, CHIZUMILA, BENSAOULA, ANUKAM, NTSEBEZA and SACKO

The Applicant who alleged that he was a victim of double arrest and long-term detention by the Respondent State stated in his originating Application that he was acting for himself and on behalf of his spouse and children. The Respondent State challenged the inclusion of members of the Applicant's family as parties. The Court ordered that the title of the matter be amended to exclude the names of members of the Applicant's family.

Procedure (indirect victims cannot be applicants, 11)

I. The Parties

1. Mr Kouadio Kobena Fory, self-represented and declaring to act on behalf of his wife Jeanne Yavo and his three (3) children Jean-Eudes Wilfried, Akoua Merveille Laetitia and Linda De-la-Sainte Face, (hereinafter, referred to as "the Applicants" is a national of Cote d' Ivoire, as are those he represents.
2. The Application is filed against the Republic of Cote D'Ivoire (hereinafter referred to as "the Respondent State"), which became a party to the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter") on 31 March 1992 and to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") on 25 January 2004. On 23 July 2013, the Respondent State deposited the Declaration provided for in Article 34(6) of the Protocol by virtue of which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations having observer status with the African Commission on Human and Peoples' Rights. On 29 April 2020, the Respondent State deposited with the African Union Commission an instrument of withdrawal of its Declaration. The Court has ruled that this withdrawal has no bearing on pending cases and on new cases filed before the entry into force of the

withdrawal one year after its deposit, that is, on 30 April 2021.¹

II. Subject of the Application

A. Facts of the matter

3. The Applicant alleges that, in 1995, he was arrested, convicted and sentenced to ten (10) years in prison, payment of a fine and damages to the Respondent State for acts of embezzlement of public funds. One week after his release from prison in 2005, he was re-arrested and held without trial until his release in 2011.
4. Believing that his fundamental rights and those of his wife and children were violated by the Respondent State, the Applicant, acting on his own behalf and on behalf of his wife and three children, filed this Application with the Court on 8 November 2017.

B. Alleged violations

5. The Applicant alleges that the Respondent State violated his rights to a fair trial, to physical and moral integrity, to freedom of opinion as well as his right to property. He further alleges that his right as well as that of his wife to work and to adequate remuneration were violated and that the double detention violated his right to protection of the right to a family for his wife and children.

III. Summary of the Procedure before the Court

6. The initial Application was received by the Registry on 8 November 2017. On 8 May 2018, the Applicant, at his own initiative, filed additional submissions to his Application.
7. On 2 July 2018, the Application and the additional submissions were served on the Respondent State.
8. On 12 October 2021, pleadings were closed and the parties were duly informed.

IV. Change of title of Application

9. The Respondent State avers that while the standing of Kouadio

¹ *Suy Bi Gohore Émile and others v Republic of Côte d'Ivoire*, ACTHPR, Application No. 044/2019, Judgment of 15 July 2020 (merits and reparations), § 67; *Ingabire Victoire Umuhoza v Republic of Rwanda*, (jurisdiction) (3 June 2016) 1 AfCLR 540 § 69.

Kobena Fory, the alleged direct victim of human rights violations, does not pose a problem, the same is not true for his wife Jeanne Yavo, son Jean-Eudes Wilfried and daughters Akoua Merveille Laetitia and Linda De-la-Sainte Face who obviously do not have standing as Applicants. It contends that the family members on whose behalf the Applicant claims to be acting are all of legal age and have the ability to bring a case directly before the Court.

10. The Court recalls its previous jurisprudence that “neither the Charter, nor the Protocol, nor the Rules require that the Applicant and the victim have to be the same,”² and that any person who can sue can do so on his or her own behalf and/or on behalf of others if they obtain the consent or authorization of the persons on behalf of whom they are acting.
11. In this case, the Court notes that the Applicant submits that the alleged violations of the rights of his wife and his children are closely related to his legal predicament since his double arrest and his detention. It can be inferred that the Applicant's wife and children are indirect or vicarious victims and are therefore not considered as Applicants in this case.
12. In light of the foregoing, the Court finds that Mr Kouadio Kobena Fory is the only Applicant in the instant case and declares the objection of the Respondent State to be founded.
13. The Court, having thus concluded, considers it necessary to amend the title of Application No. 034/2017: *Kouadio Kobena Fory, spouse, son and daughters v Republic of Côte d'Ivoire* and retain the identity of the sole Applicant Kouadio Kobena Fory.

V. Operative part

14. For these reasons,
The Court,
Unanimously,

- i. *Finds* that Kouadio Kobena Fory is the sole Applicant in the instant case;

2 *Sébastien Germain Ajavon v Republic of Benin*, ACTHPR, Application No. 062/2019, Judgment (merits) (4 December 2020), § 58.

- ii. Orders that the title of the Application “N°034/2017: *Kouadio Kobena Fory, spouse, son and daughters v Republic of Cote d'Ivoire*” shall be amended to read as follows: “N°034/2017: *Kouadio Kobena Fory v Republic of Côte d'Ivoire*”.