



Federal Ministry of Justice

ECOWAS COURT DISMISSES SERAP's CASE PROSECUTED BY FALANA AGAINST FG

The Community Court of Justice of the Economic Community of West African States (ECOWAS) has dismissed six year application (ECW/CCJ/JUD/08/21) filed by the registered trustees of the Socio-Economic Rights and Accountability Project (SERAP) against the Federal Government.

In a judgment which was delivered on 26th April, 2021 the Court which was presided over by Hon. Justice Edward Amoaka ASANTE comprising two other members including Hon. Justice Gberi-Be OUTATTARA and Hon. Justice Januaria T. Silva Moreira COSTA declared the application inadmissible.

SERAP through its solicitors; Olufunmilola Falana (Mrs) Esq, Olusola Egbeyinka, Esq of Falana and Falana Chambers had on 4th April, 2016 filed an application at the ECOWAS against “violation of human rights of Nigerians and other individuals”.

Such rights according to the applicants included the rights to life, to security of the human persons, to the respect of the dignity inherent in a human being and right of property, guaranteed by Articles 1, 2, 3, 4, 5, 6 and 14 of the African Charter, Articles 1, 2, 3, 7, 8 and 17 of the Universal Declaration of Human Rights, Articles 2 and 6(1) of the International Covenant on Civil and Political Rights.

The Federal Government solicitors; T.A Gazali,SAN and Adedayo Ogundele, Esq all of the Office of the Attorney General of the Federation, Federal Ministry of Justice, Abuja advanced responses ranging from:

- (a) Denying committing any violation against some groups,
- (b) Settlement of compensation, and
- (C) Contention that most of the issues were either settled, or at the appeal courts for further interpretation and final resolution.

The Court further maintained that even where jurisdiction of Court is established, according to Article 10(d) of the Supplementary Protocol of the Court as amended, an application whose subject matter concerns human rights violation shall only be admissible when three criteria are met: the Applicant's status as "victims" must be established, the non-anonymity of the application and the absence of *litis pendentie* before another international Court or Tribunal.

According to the judgment:

"The Applicant having purportedly initiated the instant action on behalf of a community or group which lacks proper identification, Applicant's locus standing in the matter cannot be sustained to admit the case for determination.

"Consequently, the action cannot be admitted under such a fatal capacity of the Applicant and same is dismissed in its entirety".

"It must be further observed that the Applicant NGO has not been directly affected by the alleged violations, therefore it does not fulfill the requirement of being a victim on its own right".

The Court judgment further stated that "the only ground to admit the case is on proof of the action being *action popularis*. However, the principles of public interest litigation and *action popularis* appear non-applicable to this case since the rights complained of, such as the right to life, to property, etc which primarily belongs to the victims and may only be claimed by them or their next-of-kins where necessary, have not been succinctly linked to the general public interest contemplated in the context of an *action popularis*.

“In the instant case, all the communities or groups on whose behalf the action is purportedly initiated to vindicate any alleged violations of their rights have themselves already taken various legal steps to remedy any wrongs if any.

The applicant case fails to clearly establish any community or groups whose public interest is allegedly breached and needs vindication as claimed,” the Court declared.

Responding to the development, the Attorney General of the Federation and Minister of Justice, Abubakar Malami described the judgment as a clear vindication of the Federal Government’s efforts towards respecting human rights and international conventions.

In a statement issued by Dr. Umar Jibrilu Gwandu, Special Assistant on Media and Public Relations in the office of the HAGF, Malami said the judgment has saved Nigeria from payment of billions of Nigeria’s naira for bogus claims.

Malami renewed the commitment of the Office of the Attorney General of the Federation and that of the Federal Government to protecting the rights of citizens in ramifications as well as protecting the public interest in the discharge of constitutionally recognized mandate.