

UGANDA / JUDGMENT

Kisase v Tanzania (Application No. 005/2016) [2019] AfCHPR 29 (19 August 2019)

[2019] AfCHPR 29

COURT

African Court on Human and Peoples Rights

BEFORE

Anukam J, Ben Achour J, Bensaoula J, Chizumila J, Eno R, Kioko VP, Matusse J, Mengue J, Mukamulisa J, Orè P, Tchikaya J

CASE / FILE NUMBER

Application No. 005/2016

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THE MATTER OF

SADICK MARWA KISASE

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION No. 005/2016

ORDER FOR RE-OPENING OF PLEADINGS

19 AUGUST 2019

The Court composed of: Sylvain ORÉ, President; Ben KIOKO, Vice-President; Rafaâ BEN ACHOUR, Ângelo V. MATUSSE, Suzanne MENGUE, M-Thérèse MUKAMULISA Tujilane R. CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAYA, Stella I. ANUKAM, Judges; and Robert ENO, Registrar.

Pursuant to Article 22 of 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") and Rule 8(2) of the Rules of Court (hereinafter referred to as "the Rules"), Judge Imani D. ABOUD, member of the Court and a national of Tanzania, did not hear the Application.

In the Matter of:

Sadick Marwa KISASE

Self -represented

Versus

UNITED REPUBLIC OF TANZANIA

represented by:

1. Dr Clement J. MASHAMBA - Solicitor General, Office of the Solicitor General;
2. Ms. Sarah MWAIPOPO, Director, Constitutional Affairs and Human Rights, Attorney General's Chambers;
3. Mr. Zachariah ELISARIA, Senior State Attorney, Attorney General's Chambers;
4. Ms. Nkasori SARAHIKYA, Principal State Attorney, Attorney General's Chambers;
5. Mr. Benedict T. MSUYA, Second Secretary, Legal Officer, Ministry of Foreign Affairs and International Cooperation;
6. Mr. Michael LUENA, Principal State Attorney. Attorney General's Chambers;
7. Mr. Veritas MLAY, State Attorney, Attorney General's Chambers.

after deliberation,

issues the following Order:

1. **THE PARTIES**
2. Sadick Marwa Kisase, (hereinafter referred to as "the Applicant") is a national of Tanzania, who was arrested and convicted for the offence of armed robbery and sentenced to thirty (30) years imprisonment by the District Court of Geita. He filed an appeal at the High Court, Mwanza (Criminal Appeal N0 85 of 2009) and later at the Court of Appeal of Tanzania, Mwanza (Criminal Appeal N0 83 of 2002). Both Appeals were dismissed, with the Court of Appeal upholding the decision of the lower courts on 26 July 2013. The Applicant is currently serving a thirty (30) years' imprisonment sentence at Butimba Central Prison, Mwanza.

3. The Respondent State is the United Republic of Tanzania, which became a Party to the African Charter on Human and Peoples' Rights (hereinafter referred to as the "Charter") on 21 October 1986, and to the Protocol on 10 February 2006. Furthermore, the Respondent State, on 29 March 2010, deposited the Declaration prescribed under Article 34(6) of the Protocol, by which it accepts the jurisdiction of the Court to receive applications from individuals and NGOs.
4. **SUBJECT MATTER OF THE APPLICATION**
5. The Application, filed on the 13 January 2016, is based on the Respondent State's alleged violations of the Applicant's right to be heard, equal protection before the law and failure to provide legal assistance during the proceedings at the domestic courts, as provided for under Articles 1, 7(1) (c), (d), 3(1) (2) of the Charter, as well as Articles 107 A (2) (b) of the Tanzanian Constitution of 1977.
6. **SUMMARY OF THE PROCEDURE BEFORE THE COURT**
7. The Parties filed their submissions on the merits within the time stipulated by the Court, which were duly exchanged between them.
8. The Applicant filed his submission on reparations on 27 September 2018, which was transmitted to the Respondent State on 28 September 2018.
9. After extensions of time granted to the Respondent State on 12 December 2018; 18 February 2019 and 15 March 2019, on 13 June 2019, pleadings were closed and the Parties were duly notified.
10. On 5 August 2019, the Respondent State filed its Response to the Applicant's submission on reparations.
11. **THE COURT:** * 1. Orders that the proceedings in *Application No. 005/2016 - Sadick Marwa Kisase v. United Republic of Tanzania* be and are hereby reopened;
2. Rules that, in the interests of justice, the Respondent State's Response to the Applicant's submissions on reparations be deemed as properly filed; and
3. Orders the Applicant to submit his Reply to the Respondent State's Response, if any, within thirty (30) days of receipt thereof.

Signed:

Sylvain ORÉ, President;

and Robert ENO, Registrar.

Done at Arusha, this Nineteenth Day of August in the Year 2019, in English and French, the English text being authoritative.

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