


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

THE MATTER OF

MOSES AMOS MWAKASINDILE

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 045/2019

**ORDER
(RE-OPENING OF PLEADINGS)**

2 JUNE 2025



The Court composed of: Modibo SACKO, President; Chafika BENSAOULA, Vice-President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, , Blaise TCHIKAYA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Dennis D. ADJEI, and Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In accordance with 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 9(2) of the Rules of Court (hereinafter referred to as “the Rules”), Justice Imani D. ABOUD, a Judge of the Court, and a national of Tanzania, did not hear the Application.

In the matter of

Moses Amos MWAKASINDILE

Represented by:

Edwin Alon HANS, Advocate.

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

Ally POSSI, Solicitor General, Office of the Solicitor General.

After deliberation,

Issues this Order:

I. THE PARTIES

1. Moses Amos Mwakasindile (hereinafter referred to as “the Applicant”) is a Tanzanian national. He brings this Application with respect to the alleged violation of his right to a fair trial.
2. The United Republic of Tanzania (hereinafter referred to as “the Respondent State”) became 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. On 29 March 2010, it deposited the Declaration required under Article 34(6) of the Protocol, by which it accepted the jurisdiction of the Court to receive cases from individuals and Non-Governmental Organizations. On 21 November 2019, it deposited with African Union Commission, an instrument of withdrawal of the said Declaration. The Court has held that this withdrawal has no bearing on pending cases and new cases filed before the day on which the withdrawal took effect, which was on 22 November 2020, being a period of one year after its deposit.¹

II. SUBJECT MATTER OF THE APPLICATION

3. The Applicant states that he was charged, tried and convicted of trafficking drugs contrary to Section 16 (b)(i) of the Drug and Prevention of Illicit Traffic Drugs Act of the Respondent State. He was subsequently sentenced to life imprisonment by the High Court of Tanzania at Mbeya in Criminal Case No. 54 of 2015 on 16 December 2016. Being dissatisfied with the High Court’s conviction and sentence, he appealed to the Court of Appeal at Mbeya in Criminal Appeal No. 15 of 2017 which dismissed the appeal in its entirety on 30 August 2019.

¹ *Andrew Ambrose Cheusi v. United Republic of Tanzania* (judgment) (26 June 2020) 4 AfCLR 219, § 38.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

4. The original Application was filed before the Court on 6 September 2019, and served on the Respondent State on 21 October 2019. The Respondent State however did not file any Response in spite of several reminders by the Court.
5. The Applicant filed an amended Application on 3 January 2024 and this was served upon the Respondent State on 18 January 2024. The Respondent State was given thirty (30) days within which to file a Response or any observations. Having received no response from the Respondent State, pleadings were closed on 6 March 2024 and the Parties were duly notified.

IV. ON THE REOPENING OF PLEADINGS

6. On 6 February 2025, the Respondent State filed its Response, together with a request for extension of time within which to submit its Response to the amended Application. It submitted that it had failed to comply with the time-limits because it was seeking different information from various stakeholders on the matter.
7. The Respondent State's request was transmitted to the Applicant, requesting him to file any observations on the request within fifteen (15) days.
8. On 4 March 2025, the Applicant acknowledged receipt of the Respondent State's request, indicating that he had no concern, leaving the matter for the Court's discretion.

9. The Court notes that pursuant to Rule 46(3) of the Rules, it "has the discretion to determine whether or not to reopen pleadings". Further, Rule 90 of the Rules stipulates that "[n]othing in these Rules shall limit or

otherwise affect the inherent power of the Court to adopt such procedure or decisions as may be necessary to meet the ends of justice.” Ultimately, therefore, it lies within the discretion of the Court to decide whether or not to extend time for filing pleadings.²

10. In the instant Application, the Court observes that no objection to the request for extension of time has been registered by the Applicant. In the circumstances, the Court holds that, for the proper administration of justice, the request of the Respondent State must be granted.³ The Court thus orders that the pleadings be reopened, and the Respondent State’s Response be deemed to have been properly filed.
11. The Court also orders that the Respondent State’s Response be served upon the Applicant. Should the Applicant wish to reply to the Respondent State’s submissions, then he shall do so within thirty (30) days from the date of notification of this order.

V. OPERATIVE PART

12. For these reasons:

THE COURT,

Unanimously,


- i. Orders that the pleadings in Application No. 045/2019 – *Moses Amos Mwakasindile v. United Republic of Tanzania* be reopened;
- ii. Orders that the Respondent State’s Response filed on 6 February 2025 be deemed to have been duly filed;

² *Nguza Viking (Babu Seya) and Anor v. United Republic of Tanzania* (Reopening of pleadings) (2020) 4 AfCLR 1, § 7.

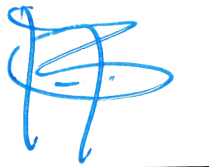
³ *Anudo Ochieng Anudo v. United Republic of Tanzania* (Reopening of pleadings) (2020) 4 AfCLR 31, § 12.

- iii. Orders that the Respondent State's Response be served on the Applicant, who shall file a Reply, if any, within thirty (30) days from the date of notification of this order.

Signed:

Modibo SACKO, President; 

and Robert ENO, Registrar.



Done at Arusha, this Second Day of the Month of June in the Year Two Thousand and Twenty-Five, in English and French, the English text being authoritative.

