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PRESS RELEASE
JUDGMENT SUMMARY

CHRISTOPHER JONAS V. THE UNITED REPUBLIC OF TANZANIA

APPLICATION No. 011/2015

JUDGMENT ON REPARATIONS

25 SEPTEMBER 2020

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Date of Press Release: 25 September 2020.

Arusha, 25 September 2020: The African Court on Human and Peoples' Rights (the Court) delivered judgment in the case of *Christopher Jonas v. United Republic of Tanzania*.

The present judgment is rendered on reparations arising from the judgment on the merits dated 28 September 2017 in which the Court found that the United Republic of Tanzania (the Respondent State) violated Article 7(1)(c) of the African Charter on Human and Peoples' Rights (the Charter) for failing to provide the Applicant with free legal assistance during his trial.

In the Application on merits, the Applicant alleged that his right to a fair trial had been violated by the Respondent State by reason of lack of access to information on the proceedings and to legal representation, being convicted on the basis of uncorroborated testimonies and being subjected to a sentence that was not applicable at the time of the trial. In the said proceedings before domestic courts, the Applicant was sentenced to thirty (30) years imprisonment for armed robbery.

In his brief on reparations, the Applicant prayed the Court to grant him various reparations for both material and moral prejudice suffered by himself and his family members, as well as costs incurred in proceedings before domestic courts and before this Court. He further sought orders

for non-repetition of the violation found, reporting on the implementation of the judgment, and publication of the judgment on the merits as a measure of satisfaction. The Respondent State on its part prayed the Court to rule that its judgment on the merits of the matter constitutes sufficient reparation, and dismiss the Applicant's claims for reparation entirely.

In dealing with the various claims made by the Applicant, the Court based its examination on main principles governing reparations as established in its case-law.

Regarding material loss, the Applicant claimed that prior to his arrest, he was a street trader at Kariakoo market in Dar es Salaam selling second-hand clothes from 1998 to 2002. He further claims that he started his business with a capital of Two Hundred and Fifty Thousand Tanzanian Shillings (TZS 250,000), which is equivalent to One Hundred and Ninety-Nine USD (US\$ 199) as at 2002. He averred that he was making an average of Six Thousand Tanzanian Shillings (TZS 6,000), which is equivalent to Six Dollars (US\$ 6) a day as of 2002.

The Court dismissed this claim on the ground that it is based on the conviction, sentencing and incarceration of the Applicant, which this Court did not find unlawful and thus do not warrant damages.

With respect to moral prejudice that he personally suffered, the Applicant claimed that such prejudice was caused by undue stress from the lack of provision of legal assistance by the Respondent State during his trials at the District Court, the High Court and the Court of Appeal, which led to his unfair conviction. He requested the Court to order the Respondent State to pay him the amount of One Hundred and Eighty-Five Thousand Dollars (US\$ 185,000) as a compensation for moral damages as a direct victim.

In considering this claim, the Court first recalled that, as established in its case-law, moral prejudice is presumed in cases of human rights violations, and quantum of damages in this respect is assessed based on equity, taking into account the circumstances of the case. The Court further restated its case-law by which it had adopted the practice of granting a lump sum in such instances.

Noting that prejudice is established due to the violation found in the judgment on the merits, the Court relied on its precedent of granting applicants an average amount of Three Hundred

Thousand Tanzanian Shillings (TZS 300,000) in instances where legal aid was not availed by the Respondent State without any peculiar prevailing circumstances. Noting further that the Applicant's claim for One Hundred and Eighty-Five Thousand Dollars (US\$ 185,000) is excessive and that there is no reason that warrants awarding damages in United States Dollars, the Court awarded the Applicant the amount of Three Hundred Thousand Tanzanian Shillings (TZS 300,000) as fair compensation.

With respect to moral prejudice suffered by indirect victims, the Court noted that the claims related to loss incurred by the said victims are based on the conviction, sentencing and incarceration of the Applicant, which it had earlier established did not cause prejudice. The Court therefore found that the claims for damages made in their respect are baseless and consequently dismissed the said claims.

Regarding the prayer on non-repetition of the violation, the Court noted that the violation found in the Judgment on the merits did not fundamentally affect the outcome of the proceedings before the domestic courts. It further found that the said violation is not repetitive in nature and compensation is being awarded in their respect, which should suffice. Noting also that an order of non-repetition is not necessary due to the fact that the proceedings at the domestic courts have already been completed, the Court therefore dismissed the prayer.

On the prayer that the Respondent State should be ordered to publish the judgment on the merits, the Court found that, in the instant matter, there is no peculiar circumstance that warrants an order for publication. Noting further that the Respondent State had, on 31 January 2017, which is prior to the Judgment on the merits of the present case, passed its Legal Aid Act, the Court found that an order for publication is not necessary and therefore dismissed the prayer.

On costs, the Court dismissed the Applicant's prayer on the ground that he was represented by the Pan African Lawyers Union under the Court's legal aid scheme, which is *pro bono* in nature. The Court also dismissed other prayers of the Applicant related to costs for proceedings before it for lack of supporting documents.

The Court ordered that each Party should bear its costs.

Further Information

Further information about this case, including the full text of the decision of the African Court, may be found on the website at: <https://en.african-court.org/index.php/56-pending-cases-details/876-app-no-011-2015-christopher-jonas-v-united-republic-of-tanzania>

For any other queries, please contact the Registry by email registrar@african-court.org

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