



African Court
on Human and Peoples' Rights

Arusha, Tanzania
Website: www.african-court.org
Telephone+255-732-979-509

PRESS RELEASE
JUDGMENT SUMMARY

CHANANJA LUCHAGULA V. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 039/2016

RULING ON JURISDICTION AND ADMISSIBILITY

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 a ruling in the case of *Chananja Luchagula v. United Republic of Tanzania*.

Mr. Chananja Luchagula (the Applicant) is a national of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, the Applicant was in prison awaiting the execution of his death sentence after his conviction for murder, on 31 May 2001. Since then he has been released from prison following a Presidential Pardon on 9 December 2017.

In his Application, the Applicant alleges that the Court of Appeal erred in its judgment of 2 July 2003 when it upheld his conviction for murder of four men. The Applicant therefore claims that the Respondent State violated his right to freedom from discrimination, right to equality and equal protection of the law, the right to life and integrity of his person, right to dignity and freedom from torture and inhuman and degrading treatments, right to a fair trial and right to equality of people guaranteed under Articles 2, 3(1) and (2), 4, 5, 6, 7(1) and 19 of the Charter, respectively.

The Court observed that, as per Article 3(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol), it had to determine whether it had jurisdiction to hear the Application. The Court noted

that the Respondent State raised an objection to its material jurisdiction. The Respondent State argued that the Court was not vested with jurisdiction to deal with the Application since the Applicant was inviting it to sit as an appellate court and adjudicate on matters already considered and concluded by its Court of Appeal.

Regarding this objection, the Court held that it does not exercise appellate jurisdiction with respect to claims already examined by national courts. The Court, however, emphasised the fact that even though it is not an appellate court vis-à-vis domestic courts, it retains the power to assess the propriety of domestic proceedings against standards set out in international human rights instruments ratified by the State concerned. In relation to the allegations made by the Applicant, the Court held that these were within the purview of its jurisdiction given that they invoked rights protected under the Charter, specifically under Articles 2, 3, 4, 5, 6, 7 and 19 thereof. The Court thus found that the Applicant's allegations required it to determine whether the manner in which domestic proceedings were conducted was in compliance with international human rights law. In doing so, the Court held, it does not sit as an appellate court with regard to domestic courts but simply examines procedures and processes before national courts to determine whether they are in conformity with the standards set out in the Charter and any other human rights instrument ratified by the State concerned. The Court, therefore, dismissed the Respondent State's objection.

Although other aspects of its jurisdiction were not questioned by either of the Parties, the Court nevertheless examined other aspects of its jurisdiction.

The Court found that it had personal jurisdiction since on 29 March 2010, the Respondent State deposited the Declaration provided for under Article 34(6) of the Protocol and this Declaration allows individuals to file applications against it as per Article 5(3) of the Protocol. The Court further decided that the Respondent State's withdrawal of the said Declaration on 21 November 2019 did not affect this Application, as the withdrawal will only take effect on 22 November 2020.

In respect of its temporal jurisdiction, the Court noted that although the alleged violations commenced before the Respondent State became a party to the Protocol or made the Declaration under Article 34(6) of the Protocol, the said violations were continuing as of 29 March 2010 when the Respondent State deposited the said Declaration. The Court thus found that it had temporal jurisdiction.

As for its territorial jurisdiction, the Court noted that the violations alleged by the Applicant occurred within the territory of the Respondent State. In the circumstances, the Court held that it had territorial jurisdiction to hear the matter.

The Court thus held that it had jurisdiction to examine this Application.

In terms of the admissibility of the Application, the Court, as empowered by Article 6 of the Protocol, had to determine whether the requirements of admissibility, as provided under Article 56 of the Charter and Rule 40 of the Rules of Court (the Rules), had been met. In this connection, the Court considered the two (2) objections raised by the Respondent State, relating, first, to the requirement of exhaustion of local remedies, and, second, to the time within which the Application was filed after local remedies were exhausted.

With respect to the objection that the Applicant had failed to exhaust local remedies, the Respondent State argued that the Applicant did not file for a constitutional petition nor for a review of the judgment of the Court of Appeal.

In resolving this objection, the Court reiterated the fact that for purposes of exhausting local remedies an Applicant is only required to exhaust judicial remedies that are available, effective and sufficient. The Court also reiterated its position that the remedy of constitutional petition and review of the Court of Appeal's judgment, as structured in the Respondent State's judicial system, are extraordinary remedies which the Applicant was not required to exhaust prior to seizing this Court.

The Court thus held that the Applicant had exhausted local remedies. The Respondent State's objection based on non-exhaustion of local remedies was thus dismissed.

The Respondent State also claimed that the Application is inadmissible because the Applicant took too long to bring their claim to this Court. The Court upheld the Respondent State's objection in this regard and reasoned that the Applicant had not justified the filing of their Application six (6) years, three (3) months and fifteen (15) days after exhaustion of local remedies as he had simply stated that he was "indigent" and subject to restrictions, without any evidence to justify how this affected the delay in filing his application before the Court.

To this end, the Court held that the Application had not been filed within a reasonable time and thus failed to meet the requirement of Article 56(6) of the Charter and Rule 40(6) of the Rules. Following this finding, the Court concluded that since the admissibility requirements under the Charter and the Rules are cumulative, an Application that fails to meet one of the requirements fails the admissibility test. The Application was, thereby, declared inadmissible.

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://www.african-court.org/en/index.php/56-pending-cases-details/934-app-no-039-2016-chananja-luchagula-v-united-republic-of-tanzania-details>

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

The African Court on Human and Peoples' Rights is a continental court established by African Union Member States to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at www.african-court.org .