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

THE MATTER OF

HUSSEIN ALLY FUNDUMU

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 016/2018

RULING

22 SEPTEMBER 2022

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The Court composed of: Blaise TCHIKAYA, Vice-President; Ben KIOKO, Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI – 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[1] (hereinafter referred to as "the Rules"), Justice Imani D. ABOUD, President of the Court and a national of Tanzania, did not hear the Application.

In the Matter of:

Hussein Ally FUNDUMU

Self-Represented

Versus

UNITED REPUBLIC OF TANZANIA
Represented by:

i. Mr Gabriel P. MALATA, Solicitor General, Office of the Solicitor General;
ii. Dr. Ally POSSI, Deputy Solicitor General, Office of the Solicitor General;
iii. Ms. Caroline K. CHIPETA, Acting Director, Legal Unit, Ministry of Foreign Affairs, East Africa Cooperation;
iv. Mr. Kabyemela S. LUSHAGARA, State Attorney and;
v. Ms. Blandina KASAGAMA, Legal Officer, Ministry of Foreign Affairs, East Africa Cooperation.

after deliberation,

renders this Ruling:

[1] Rule 8(2) of the Rules of Court, 2 June 2010.

I. THE PARTIES

1. Hussein Ally Fundumu (hereinafter, “the Applicant”), is a national of the United Republic of Tanzania, who at the time of filing the Application, was serving a sentence of thirty (30) years imprisonment at Uyui Prison, Tabora Region, following a conviction for the offence of armed robbery. He alleges the violation of his rights during the proceedings in the domestic courts.

2. The Application is filed against the United Republic of Tanzania (hereinafter, “the Respondent State”), which became a Party to the African Charter on Human and Peoples’ Rights (hereinafter, “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 (hereinafter, “the Declaration”), through which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations. On 21 November 2019, the Respondent State deposited with the Chairperson of the African Union Commission, an instrument withdrawing its Declaration. The Court held that this withdrawal has no bearing on pending cases and new cases filed before the withdrawal came into effect, that is, one year after its deposit, which is on 22 November 2020.[2]

[2] *Andrew Ambrose Cheusi v. United Republic of Tanzania,* ACtHPR, Application No. 004/2015. Judgment of 26 June 2020 (merits and reparations) §§ 37-39.

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application, that on 1 August 2004, in Misha village in the Tabora Region, the Applicant together with two others not before the Court allegedly stole a mattress, a bicycle, a bag of clothing and a *machete* belonging to Issa Khalfani and Asha Said. In the course of the robbery, the Applicant with his co-accused assaulted the victims with a *machete* wounding them badly and discharged a fire arm as they fled the scene of the crime. The assailants were arrested and charged with armed robbery and tried at the District Court of Tabora, on 26 May 2005. The Applicant was sentenced to thirty (30) years' imprisonment, while the other two co-accused were acquitted.

4. The Applicant being aggrieved by the decision of the District Court of Tabora, filed an appeal before the High Court of Tanzania at Tabora, which on 31 August 2007, dismissed the appeal for lack of merit and upheld the decision of the District Court on the ground that the Applicant was clearly identified.

5. The Applicant being also dissatisfied with the decision of the High Court of Tanzania sitting in Tabora, filed an appeal before the Court of Appeal of Tanzania at Tabora. On 18 June 2011 the Court of Appeal dismissed the appeal on the ground that the doctrine of recent possession was correctly applied and upheld the decision of the High Court of Tanzania.

B. Alleged violations

6. The Applicant alleges the violation of the following:

    i. The right to freedom from discrimination guaranteed under Article 2 of the Charter.
    ii. The right to equal protection of the law guaranteed under Article 3(1) of the

Charter by denying him legal representation and to have his cause heard.

iii. The right to a fair trial under Article 7(1)(c) of the Charter read together with Article 10(2) of the Protocol.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

7. The Application was filed before the Court on 10 May 2018 and served on the Respondent State on 14 June 2018.

8. The Parties filed their pleadings on the merits after several extensions of time by the Court.

9. Pleadings were closed on 1 June 2021 and the Parties were duly notified.

IV. PRAYERS OF THE PARTIES

10. The Applicant prays the Court to:

    a. Protect all rights violated by the Respondent.
    b. Declare the Application admissible.
    c. Order reparations for the violations of rights found.
    d. Quash the sentence and set him free.

11. The Respondent State prays for the following measures and orders in respect of the Court's jurisdiction and the admissibility of the Application:

    a. This honourable court is not vested with jurisdiction to adjudicate over this Application;
    b. The Application has not met the admissibility requirements stipulated in Article 56(5) and (6) of the Charter, Article 6(2) of the Protocol and Rule 40(5) and (6) of the Rules of the Court;
    c. The Application be declared inadmissible;

d. The Application be dismissed in accordance with Rule 38 of the Rules of Court; and
e. The costs of this Application be borne by the Applicant.

12. In its Response on the merits of the Application, the Respondent State prayed for the following measures and orders:
    a. The Respondent State has not violated the rights of the Applicant provided under Articles 3(2) and 7(1)(c) of the Charter;
    b. The Application be dismissed for lack of merit;
    c. The Applicant should not be granted reparations;
    d. The Applicant should continue to serve his sentence in prison;
    e. The Applicant's prayers be dismissed; and
    f. The costs of this Application be borne by the Applicant.

V. JURISDICTION

13. The Court observes that Article 3 of the Protocol provides as follows:

> 1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned.
> 2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

14. The Court further observes that pursuant to Rule 49(1) of the Rules, it "shall conduct a preliminary examination of its jurisdiction […] in accordance with the Charter, the Protocol and these Rules."[3]

15. In view of the foregoing, the Court must conduct an assessment of its jurisdiction and dispose of objections thereto, if any.

[3] Rule 39(1) of the Rules of Court, 2 June 2010.

16. In the present Application, the Court notes that the Respondent State has raised objections to the Court's temporal and material jurisdiction.

A. Objection to material jurisdiction

17. The Respondent State raises objections to the Court's material jurisdiction on the grounds that it will be sitting as a court of first instance and as a Court of Appeal, should it adjudicate over matters already finalised by the highest Court of Respondent State, the Court of Appeal of Tanzania and prays the Application be dismissed.

18. It avers that the jurisdiction of this Court is provided for under Article 3 of the Protocol and Rule 26 of the Rules of the Court, which accords the Court only jurisdiction to deal with cases or disputes concerning the application and interpretation of the Charter, the Protocol and any other relevant human rights instrument ratified by the State concerned. Hence, the Court is not afforded with unlimited jurisdiction.

19. The Respondent State further avers that it is cognisant of the provisions of Article 27(1) of the Protocol, however the prayers being sought by the Applicant go beyond the jurisdiction and mandate of this Court, since the Applicant is seeking to be released from the custody. It avers that the Court does not have the power to order for the release of a duly convicted person by the Respondent State.

20. The Applicant submits that the Court's material jurisdiction is established since the alleged violations are enshrined under the provisions of the Charter, the Universal Declaration of Human Rights (UDHR) and the Respondent State's Constitution. The Applicant alleges that the acts of the Respondent State amount to the violation of the rights to equal protection before the law, right to have one's cause heard and right to a fair trial.

21. The Applicant further states that the Court has jurisdiction to hear all cases submitted to it alleging violation of rights in the Charter. The Applicant

further avers that this Application falls into that category as it alleges violation of Article 3(1), (2) of the Charter and relied on the Court's jurisprudence in support of this assertion.[4]

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22. The Court recalls that under Article 3(1) of the Protocol, it has jurisdiction to examine any application submitted to it, provided that the rights of which a violation is alleged are protected by the Charter or any other human rights instrument ratified by the Respondent State.[5] The Court in *Alex Thomas v. Tanzania*[6] and *Wilfred Onyango Nganyi and Others v. Tanzania*[7] held that the substance of the complaint must relate to rights guaranteed by the Charter or any other human rights instrument ratified by the State concerned. It is not necessary that the rights alleged to have been violated are specified in the Application.

23. With regard to this Court sitting as a court of first instance, the Court observes that the alleged violations relating to the proceedings before the domestic courts are of rights provided for in the Charter, namely: the right to freedom from discrimination, right to equality before the law, right to representation and having his cause heard and right to a fair trial.[8]

24. Consequently, the claim that the Court would be sitting as a court of first instance is dismissed.

25. With regard to the Court sitting as an appellate court, this Court recalls, its established jurisprudence, "that it is not an appellate body with respect to

[4] *Thomas Mjengi vs Republic [1992] TZHC 18 (23 June 1992), Criminal Appeal No. 19 of 1990 (unreported) and Powell v. Alabama* (1932) 287 U.S 45.
[5] See, for instance, *Kalebi Elisamehe v. United Republic of Tanzania*, ACtHPR, Application No. 028/2015, Judgment of 26 June 2020 (merits and reparations), § 18.
[6] *Alex Thomas v. Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 45.
[7] *Wilfred Onyango Nganyi and Others v. Tanzania* (merits) (18 March 2016) 1 AfCLR 507, §§ 57-58.
[8] *Kennedy Ivan v. United Republic of Tanzania* (merits) (28 September 2017) 3 AfCLR 48, §§ 20-22; *Armand Guehi v. Tanzania* (merits and reparations) § 33; *Nguza Viking (Babu Seya) and Johnson Nguza (Papi Kocha) v. United Republic of Tanzania* (merits) (23 March 2018) 2 AfCLR 287, § 35.

decisions of national courts".[9] However "… this does not preclude it from examining relevant proceedings in the national courts in order to determine whether they are in accordance with the standards set out in the Charter or any other human rights instruments ratified by the State concerned." In this regard, therefore it would not be sitting as an appellate court, if it were to examine the allegations by the Applicant. This claim is therefore dismissed.

26. As a consequence of the foregoing, the Court dismisses the Respondent State's objection and finds that it has material jurisdiction to consider the present Application.

B. Objection to temporal jurisdiction

27. The Respondent State avers that the alleged violations raised by the Applicant are not ongoing and that the Applicant is "serving a lawful sentence for the commission of an offence as provided by a valid statute and as per the evidence on record".

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28. The Applicant did not respond on this issue.

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29. In respect of its temporal jurisdiction, the Court notes that the relevant dates, in relation to the Respondent State, are those of entry into force of the Charter and the Protocol as well as the date of depositing the Declaration under Article 34(6) of the Protocol.

30. In the instant case, the Court notes that the violations alleged by the Applicant are based on the judgments of the High Court and Court of Appeal rendered on 31 August 2007 and 18 June 2011, respectively, that

[9] *Ernest Francis Mtingwi v. Malawi* (jurisdiction), § 14.

is, after the Respondent State ratified the Charter and the Protocol, and deposited the Declaration. Furthermore, the alleged effects of the violations are continuing, as the Applicant remains convicted and is serving the 30-year imprisonment term imposed upon him by the High Court of Tabora on 26 May 2005, on the basis of what he considers an unfair process.[10]

31. Consequently, the Court holds that it has temporal jurisdiction to examine this Application and dismisses the Respondent State's objection accordingly.

C. Other aspects of jurisdiction

32. The Court notes that its personal and territorial jurisdiction are not contested by the Respondent State. Nonetheless, in line with Rule 49(1) of the Rules[11] it must satisfy itself that all aspects of its jurisdiction are fulfilled before proceeding.

33. In relation to its personal jurisdiction, the Court recalls as indicated in paragraph 2 of the Ruling, that the Respondent State is a party to the Protocol and deposited the Declaration under Article 34(6) of the Protocol with the Chairperson of the African Union Commission. Subsequently, on 21 November 2019, it deposited an instrument withdrawing its Declaration.

34. The Court recalls its jurisprudence that the withdrawal of the Declaration does not apply retroactively and only takes effect one (1) year after the notice of such withdrawal has been deposited, in this case, on 22 November 2020.[12] This Application having been filed before the Respondent State deposited its notice of the withdrawal, is thus not affected by it. Consequently, the Court holds that it has personal jurisdiction.

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[10] *Tanganyika Law Society and Legal and Human Rights Center v. United Republic of Tanzania* (merits) (14 June 2013) 1 AfCLR, § 84; African Commission on Human and Peoples' Rights v Kenya (merits) (26 May 2017) 2 AfCLR, § 65; *Kennedy Ivan v. United Republic of Tanzania* (merits and reparations) (28 March 2019), 3 AfCLR, § 29 (ii).

[11] Rule 39(1) of the Rules of Court, 2 June 2010.

[12] *Andrew Ambrose Cheusi v. United Republic of Tanzania*, ACtHPR, Application No. 004/2015, Judgment of 26 June 2020 (merits and reparations), §§ 35-39.

35. As for its territorial jurisdiction, the Court notes that the violations alleged by the Applicant happened within the territory of the Respondent State. In the circumstances, the Court holds that its territorial jurisdiction is established.

36. In light of all the above, the Court holds that it has jurisdiction to determine the present Application.

VI. ADMISSIBILITY

37. Pursuant to Article 6(2) of the Protocol, "the Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter."

38. In line with Rule 50(1) of the Rules, "the Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6(2) of the Protocol and these Rules."[13]

39. The Court notes that Rule 50(2) of the Rules, which in substance restates the provisions of Article 56 of the Charter, provides as follows:

> Applications filed before the Court shall comply with all of the following conditions:
>
> a. Indicate their authors even if the latter request anonymity;
> b. Are compatible with the Constitutive Act of the African Union and with the Charter;
> c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;
> d. Are not based exclusively on news disseminated through the mass media;
> e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;

[13] Rule 40 of the Rules of Court, 2 June 2010.

f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seised with the matter; and

g. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Constitutive Act of African Union or the provisions of the Charter.

40. The Respondent State raises objections to the admissibility of the Application, based on non-exhaustion of local remedies and failure to file the Application within a reasonable time.

A. Objection based on non-exhaustion of local remedies

41. The Respondent State avers that the Applicant has not exhausted domestic remedies in respect of the violations that he is raising before this Court and never made an attempt to exhaust the same from the domestic courts, which is contrary to Article 56(5) of the Charter and Rule 40(5)[14] of the Rules of Court. The Respondent State cites the Court and African Commission on Human and Peoples' Rights' jurisprudence in support of its submissions that since these claims are being raised before the Court for the first time, they are inadmissible.[15]

42. The Respondent State avers that the Applicant never made any attempt to exhaust the available remedies and to give it the opportunity to address his alleged grievances. Therefore, it is improper for the Applicant, at this stage, to raise matters, which he could have addressed within the national criminal justice system of the Respondent State. Additionally, that the Respondent State did not prolong the proceedings within its judicial system.

[14] Rule 50(2)(e) of the Rules of Court, 25 September 2020.
[15] *Urban Mkandawire v. Republic of Malawi*, ACtHPR, Application No. 003/2011, Judgment of 13 March 2011 (jurisdiction & admissibility), §§ 38.1-38.2; *Peter Joseph Chacha v. United Republic of Tanzania*, ACtHPR, Application No. 003/2012, Judgment of 28 March 2014 (jurisdiction & admissibility), §§ 142-145 and African Commission on Human and Peoples' Rights' decision in *Article 19 versus Eritrea*.

43. The Respondent State submits that the Applicant was made aware of his right to appeal by the trial court. Furthermore, it avers that the practice in the prisons is that a new prisoner is informed of his right to appeal and asked whether he wishes to file notice of intention to appeal. Subsequently, the prison authority records the response of the prisoner and forwards all correspondences of the prisoner to the relevant appellate court as provided under Order 449 of the Prison Standing Orders.

44. The Respondent State further refers to the Court's decision in *Peter Joseph Chacha v. United Republic of Tanzania*[16] and prays this Court to hold the same view that "the exception to the requirement of exhaustion of local remedies does not apply in this present case."

45. The Respondent State reiterates that legal remedies were available to the Applicant but instead he slept on his rights. For these reasons, the Applicant has failed to comply with the admissibility requirement under Article 56(5) of the Charter and Rule 40(5) of the Rules of the Court, therefore this Application should be declared inadmissible and dismissed.

46. The Applicant did not respond to this objection.

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47. The Court observes that pursuant to Article 56(5) of the Charter, whose requirements are mirrored in Rule 50(2)(e) of the Rules, any Application filed before it shall fulfil the requirement of exhaustion of local remedies. The rule of exhaustion of local remedies aims at providing States with the opportunity to deal with human rights violations within their jurisdictions before an international human rights body is called upon to determine the State's responsibility for the same.[17]

[16] Application No.003/2012 at paragraph 148.
[17] *African Commission on Human and Peoples' Rights v. Republic of Kenya* (merits) (26 May 2017) 2 AfCLR 9, §§ 93-94.

48. In the instant case, the Court notes that the Applicant's appeal before the Court of Appeal, which is the highest judicial organ of the Respondent State, was determined when that Court rendered its judgment on 18 June 2011. In light of this, the Court, considers therefore, that the Respondent State had the opportunity to address the alleged violations arising from the Applicant's trial and appeals.

49. Consequently, the Court holds that the Applicant has exhausted local remedies as envisaged under Article 56(5) of the Charter and Rule 50(2)(e) of the Rules and therefore, it dismisses the Respondent State's objection.

B. Objection based on the failure to file the Application within a reasonable time

50. The Respondent State avers that the judgment of the Court of Appeal was delivered on 18 June 2011, whereas this Application was filed in this Court on 10 May 2018, which is a difference of "seven (7) years and six (6) months" from the date when the domestic courts determined the matter.

51. The Respondent State further avers that Article 56(6) of the Charter requires an application to be submitted to the Court "within a reasonable time from the time local remedies are exhausted". Furthermore, Rule 40(6) of the Rules[18] permits the Court to set the date as the commencement of the time limit within which it shall be seized with the matter. Although, the Rules of the Court do not specify or define what amounts to reasonable time, this Court has held on several occasions that it shall consider the reasonableness of time on a case-by-case basis as it did in its decisions in *Beneficiaries of the late Norbert Zongo and Other v. Burkina Faso*, and in *Mohamed Abubakar v. United Republic of Tanzania. The* Respondent State concludes that in the present application a period of "seven (7) years and six (6) months" does not fall within the parameters of reasonable time.

[18] Rule 50(2)(f) of the Rules of Court, 25 September 2020.

52. In summation, the Respondent State avers that the overall issue of admissibility is that all admissibility requirements provided by Article 56(1)-(7) of the Charter and Rule 40(1)-(7) of the Rules of Court have to be met for an application to be deemed admissible. It refers to the Court's decision in *Mariam Kouma & Ousmane Diabate v. Mali* where this Court held that: "…according to Article 56 of the Charter, the conditions of admissibility are cumulative and, as such, when one of them is not fulfilled, the Application cannot be admissible." Hence the Respondent State calls upon this Court not to admit the Application.

53. The Applicant did not respond to this objection.

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54. The Court notes that neither the Charter nor the Rules specify the time within which Applications must be filed, after exhaustion of local remedies. Article 56(6) of the Charter and Rule 50(2)(f) of the Rules merely provide that Applications must be filed "…within reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter".

55. From the record before the Court, the Applicant exhausted local remedies on 18 June 2011, when the Court of Appeal dismissed the Applicant's appeal before the Court of Appeal of Tanzania at Tabora in Criminal Appeal No. 426 of 2007. The Applicant then filed his Application before the Court on 10 June 2018.

56. The Court recalls its jurisprudence that: "…the reasonableness of the time frame for seizure depends on the specific circumstances of the case…".[19] Some of the circumstances that the Court has taken into consideration

[19] *Beneficiaries of the late Norbert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo v. Republic of Burkina Faso* (merits) (24 June 2014) 1 AfCLR 219, § 92. See also *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 73.

include: imprisonment, being lay without the benefit of legal assistance,[20] indigence, illiteracy, the recent establishment of the Court and lack of awareness of the existence of the Court.[21]

57. This Court has previously held that it is not enough for Applicants to simply plead, for example, that they were incarcerated, are lay or indigent, to justify their failure to file an application within a reasonable period of time.[22] As the Court has previously pointed out, even for lay, incarcerated or indigent applicants there is a duty for them to demonstrate how their personal situation prevented them from filing their applications before this Court in a timely manner.

58. In the instant Application, the Court observes that the judgment of the Court of Appeal in Criminal Appeal No. 462 of 2007 was delivered on 18 June 2011. The Court notes that a period of six (6) years, ten (10) months and twenty-two (22) days elapsed between 18 June 2011 and 10 May 2018 when the Applicant filed the Application before this Court. The issue for determination, therefore, is whether the period that the Applicant took to file the Application before the Court is reasonable.

59. The Court recalls that even though the Applicant was, at the material time, incarcerated and restricted in his movements, he has not provided the Court with any arguments or evidence to demonstrate that his personal situation prevented him from filing the Application in a timelier manner.

60. In view of the foregoing, the Court finds that the filing of the Application six (6) years, ten (10) months and twenty-two (22) days after exhaustion of local remedies is not a reasonable time within the meaning of Article 56(6)

[20] *Alex Thomas v. Tanzania* (merits), § 73; *Christopher Jonas v. United Republic of Tanzania* (merits) (28 September 2017) 2 AfCLR 101, § 54; *Amir Ramadhani v. United Republic of Tanzania* (merits) (11 May 2018) 2 AfCLR 344, § 83.
[21] *Amir Ramadhani v. Tanzania* (merits) § 50; *Christopher Jonas v. Tanzania* (merits), § 54.
[22] *Layford Makene v. United Republic of Tanzania*¸ ACtHPR, Application No. 028/2017 Ruling of 2 December 2021 (admissibility), § 48; *Rajabu Yusuph v. United Republic of Tanzania*, ACtHPR, Application No. 036/2017 Ruling of 24 March 2022 (admissibility), § 65.

of the Charter and Rule 50(2)(f) of the Rules. The Court therefore upholds the Respondent State's objection in this regard.

C. Other conditions of admissibility

61. Having found that the Application has not satisfied the condition in Rule 50(2)(f) of the Rules, the Court need not rule on the Application's compliance with the other admissibility conditions set out in Article 56(1), (2), (3), (4), and (7) of the Charter as restated in Rule 50(2)(a), (b), (c), (d) and (g) of the Rules, as these conditions are cumulative[23].

62. As a consequence of the foregoing, the Court declares the Application inadmissible.

VII. COSTS

63. The Applicant did not make any submissions on costs.

64. The Respondent State prayed that costs be borne by the Applicant.

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65. Pursuant to Rule 32(2) of the Rules of Court "[u]nless otherwise decided by the Court, each party shall bear its own costs".[24]

66. In light of the above provision and the circumstances of the case, the Court decides that each Party shall bear its own costs.

[23] *Jean Claude Roger Gombert v. Côte d'Ivoire* (jurisdiction and admissibility) (22 March 2018) 2 AfCLR 270 § 61; *Dexter Eddie Johnson v. Republic of Ghana*, ACtHPR, Application No. 016/2017, Ruling of 28 March 2019 (jurisdiction and admissibility), § 57.
[24] Rule 30(2) of the Rules of Court, 2 June 2010.

VIII. OPERATIVE PART

67. For these reasons,

THE COURT,

Unanimously,

On Jurisdiction

i. *Dismisses* the objections to its jurisdiction;
ii. *Declares* that it has jurisdiction.

On Admissibility

iii. *Dismisses* the objection based on non-exhaustion of local remedies;
iv. *Upholds* the objection based on the failure to file the Application within a reasonable time;
v. *Declares* the Application inadmissible.

On Costs

vi. *Orders* that each Party shall bear its own costs.

Signed:

Blaise TCHIKAYA, Vice President;

Ben KIOKO, Judge;

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Chafika BENSAOULA, Judge;

Stella I. ANUKAM, Judge;

Dumisa B. NTSEBEZA, Judge;

Modibo SACKO, Judge;

Dennis D. ADJEI, Judge;

and Robert ENO, Registrar.

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