


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

ADO SHAIBU AND OTHERS

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 046/2020

ORDER

(REOPENING OF PLEADINGS)

28 FEBRUARY 2025



The Court composed of: Modibo SACKO, Vice President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAYA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Dennis D. ADJEI, 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, President of the Court, and a national of Tanzania, did not hear the Application.

In the matter of

Ado SHAIBU and Others

Represented by:

- i. Prof Chidi Anselm ODINKALU, Advocate;
- ii. Mr. Ibrahim KANE, Advocate

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

- i. Dr Ally POSSI, Solicitor General, Office of the Solicitor General;
- ii. Ms Sarah Duncan MWAIPOPO, Deputy Solicitor General, Office of the Solicitor General; and
- iii. Ms Nkasori SARA KIKYA, Director of Human Rights, Ministry of Constitution and Legal Affairs.

After deliberation,

Issues the present Order.

I. THE PARTIES

1. Mr. Ado Shaibu (First Applicant) is the Secretary General for the Alliance for Change and Transparency Wazalendo party (ACT Wazalendo party). Mr. Ezekiah Dibogo Wenje (Second Applicant) was a contestant for a Parliamentary seat of Rorya Constituency, Tanzania. Mr. Omar Mussa Makame (Third Applicant) was a contestant for the “House of Representative in Kwahani Constituency”, Tanzania. Ms. Dorah Seronga Wangwe (Fourth Applicant) and Mr. Enock Weges Suguta (Fifth Applicant) are registered voters in Tanzania Mainland while Mr. Kassim Ali Haji (Sixth Applicant) is a registered voter in Zanzibar; hereinafter jointly referred to as (“the Applicants”). The Applicants are all nationals of the United Republic of Tanzania.
2. The Application is filed against the United Republic of Tanzania (hereinafter referred to as “the Respondent State”), 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 (hereinafter referred to as “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 an instrument withdrawing its Declaration with the Chairperson of the African Union Commission. The Court held that this withdrawal has no bearing on pending and new cases filed before the withdrawal came into effect, that is, one year after its deposit, which is on 22 November 2020.¹

¹ *Andrew Ambrose Cheusi v. United Republic of Tanzania* (judgment) (26 June 2020) 4 AfCLR 219, §§ 37-39.

II. SUBJECT MATTER OF THE APPLICATION

3. The Applicants allege that preceding, during and immediately after the 2020 general elections in the United Republic of Tanzania, the Respondent State through its agents namely National Elections Commission and the Zanzibar Electoral Commission, the Tanzania Police Force, Tanzania Intelligence and Security Service, Tanzania Peoples Defence Force, Tanzania Broadcasting Corporation, Ministry of Information, Culture, Arts and Sports of the United Republic of Tanzania (hereinafter the URT), Ministry for Regional Administration and Local Government of the URT, Ministry for Regional Administration, Local Government of Zanzibar, and Special Forces of Zanzibar, engaged in multiple acts that violated the rights of the Applicants to participate in the elections as citizens of the Respondent State.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

4. The Application was filed on 20 November 2020 and served on the Respondent State on 3 December 2020. The Parties filed on the merits and reparations after extension of time by the Court.
5. Pleadings were closed on 22 October 2024 and the Parties were notified.
6. On 7 February 2025, the Applicants filed a request for the Court to reopen the pleadings and grant them leave to file additional written submissions.
7. On 13 February 2025, the Robert F. Kennedy Human Rights (hereinafter referred to as “RFK”) and Institute for Human Rights and Development in Africa (hereinafter referred to as “IHRDA”) filed a request to act as *amici curiae*.

IV. ON THE REOPENING OF PLEADINGS

8. The Applicants allege that the Application involves “massive and systematic electoral malpractices and violations which occurred during the Presidential elections held in Tanzania in October 2020” and which require them to file further written submissions. They therefore pray in accordance with Rule 46(3) of the Rules, for the Court, in the interest of justice, to reopen the pleadings and grant them leave to file their additional written submissions.
9. The RFK and IHRDA request the Court for leave to act as *amici curiae* and submit that they have a combined expertise and experience of six decades of litigating electoral disputes before human rights tribunals, and therefore, request for leave to file submissions on the right to participate freely in public affairs.

10. Rule 46(3) of the Rules provides that “the Court 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.”
11. With regard to the Applicants’ request, the Court notes that the present Application involves elections in the United Republic of Tanzania, the issues arising from the Application are complex and the outcome of the matter could have a bearing beyond the case of the Applicants.
12. Consequently, by virtue of its discretionary power mentioned above and with the aim of proper administration of justice, the Court grants the request of the Applicants to reopen the pleadings and consider that, the Applicants’ submissions filed on 7 February 2025 to have been duly filed and be served on the Respondent State for its Response thereto, if any, within 30 days.

13. Furthermore, the Court notes that, the expertise and experience of RFK and IHRDA in litigating electoral disputes, might be helpful, in light of the nature of the case and the issues arising. Consequently, the Court grants their request to act as *amici curiae* in this Application and considers their submissions dated 12 February 2025 as duly filed.

V. OPERATIVE PART

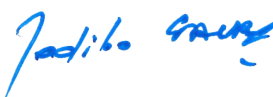
14. For these reasons:


THE COURT,

Unanimously,

- i. *Decides* that the pleadings in *Application no. 046-2020 – Ado Shaibu and others v. United Republic of Tanzania* are reopened;
- ii. *Holds* that the Applicants' submissions filed on 7 February 2025 are deemed to have been duly filed and *Orders* them be served on the Respondent State, for its Response thereto, if any, within 30 days; and
- iii. *Grants* the request for RFK and IHRDA to act as *amici curiae* in this Application.

Signed:

Modibo SACKO, Vice-President, 

and Robert ENO, Registrar. 

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

