


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

VUYO JACK

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 001/2019

ORDER

(STRIKING OUT)

9 OCTOBER 2025



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The Court composed of: Modibo SACKO, President; Chafika BENSOUOLA, Vice-President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Blaise TCHIKAYA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Dennis D. ADJEI, Duncan GASWAGA – Judges; and Grace W. KAKAI, Deputy 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"),¹ Justice Imani D. ABOUD, a judge of the Court and a Tanzanian national, did not hear the Application.

In the Matter of:

Vuyo JACK

Represented by:

Advocate Achilleus ROMWARD, East African Law Society.

Versus

THE UNITED REPUBLIC OF TANZANIA

Represented by:

- i. Dr Ally POSSI, Solicitor General;
- ii. Mr Mark MULWAMBO, Ag. Director, Civil Litigation, Office of the Solicitor General;
- iii. Ms Caroline Kitana CHIPETA, Ag. Director, Legal Unit, Office of the Solicitor General;
- iv. Ms Alesia A. MBUYA, Ag. Director, Constitutional Human Rights and Election Petitions, Principal State Attorney, Office of the Solicitor General;

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

- v. Ms Jacqueline KINYASI, State Attorney, Office of the Solicitor General; and
- vi. Ms Blandina KASAGAMA, Legal Officer, Ministry of Foreign Affairs and East African Cooperation.

After deliberation,

Issues the present Order:

I. THE PARTIES

1. Mr. Vuyo Jack (herein after referred to as the “Applicant”) is national of the Republic of South Africa who was convicted and sentenced to 25 years imprisonment by the High Court of Tanzania sitting at Mbeya, Tanzania, on 7 June 2016, for the offence of trafficking in narcotic drugs. He avers that he received a presidential pardon on 26 April 2021, and was released on 7 October 2023. He further avers that his right to a fair trial was violated in the course of the proceedings before Tanzanian courts.
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 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”) on 10 February 2006. Furthermore, on 29 March 2010, the Respondent State deposited the Declaration prescribed under Article 34(6) of the Protocol (hereinafter referred to as “the Declaration”), by virtue of 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 African Union Commission an instrument withdrawing the said Declaration. The Court has held that this withdrawal has no bearing on pending cases and new cases filed before the

withdrawal takes effect one year after its deposit, in this case, on before 22 November 2020.²

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the Application that the Applicant was arrested on 18 November 2010, at Tunduma border within the Respondent State, while returning from South Africa. The Applicant submits that he and his wife were arrested and charged with the offence of trafficking in narcotic drugs contrary to section 16(b)(i) of the Drugs and Preventions of Illicit Traffic in Drugs Act Cap 95 RE 2002, after drugs were found in their vehicle.³
4. The Applicant avers that on 18 March 2013, after a long period of detention,⁴ he was arraigned before the High Court of Tanzania sitting at Mbeya.
5. The record⁵ indicates that on 7 June 2016, the Applicant was convicted by the High Court of Tanzania sitting at Mbeya for the offence of trafficking in narcotic drugs and sentenced to 25 years imprisonment, and also ordered to pay a fine of Tanzanian Shillings Three Billion, One Hundred and Nineteen Million, Seven Hundred and Sixty Thousand (TZS 3,119,760,000). Conversely, his wife was acquitted for lack of evidence to sustain the charge against her.
6. The Applicant thereafter appealed against his conviction and sentence before the Court of Appeal of Tanzania sitting at Mbeya. The appeal was dismissed in its entirety for lack of merit on 12 December 2018. He submits that his prison term ended since 17 May 2023 in accordance with the

² *Andrew Ambrose Cheusi v. United Republic of Tanzania* (judgment) (26 June 2020) 4 AfCLR 219, §§ 37-39.

³ Cocaine, Morphine, Heroine and Hydrochloride.

⁴ Duration of detention is not specified.

⁵ Judgment of High Court of Tanzania at Mbeya Court Criminal Session Case No. 15 of 2012.

presidential pardon of 26 April 2021. According to the Applicant, despite the pardon, he was still being detained at the Ruanda Central prison in Mbeya (Tanzania) at the time of filing this Application.

B. Alleged violations

7. The Applicant contends that the Respondent State violated the following provisions of the Charter:
 - a. Article 1 of the Charter, on the obligations of the States to recognize the rights, duties and freedoms enshrined in the Charter and to undertake to adopt legislative or other measures to give effect to them;
 - b. Article 3(1) and (2) of the Charter, on equality before the law and equal protection of the law;
 - c. Article 5 of the Charter, on the right to dignity and freedom against torture, cruel and degrading treatment;
 - d. Article 7(1)(b) of the Charter, on the right to be presumed innocent until proved guilty by a competent court or tribunal;
 - e. Article 7(1)(d) of the Charter, on the right to be tried within a reasonable time by an impartial court or tribunal; and
 - f. Article 27(1) of the Charter, on the duty towards the family.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

8. On 9 January 2019, the Application was filed before this Court.
9. On 14 January 2019, the Registry acknowledged receipt of the Application and requested the Applicant to file his submissions on reparations within 30 days from the date of receipt of the notice.
10. On 21 January 2019, the Application was served on the Respondent State, with a request to submit the names and addresses of its representatives within 30 days, and its Response to the Application within 60 days of the receipt of the notice.

11. On 15 February 2019, the Applicant filed Additional Written Submissions to his Application, which was transmitted to the Respondent State on 19 February 2019 for its Response within 30 days.
12. On 18 February 2019, the Respondent State filed a letter with the list of names and addresses of its representatives. It further filed its Response to the Application on 19 March 2019. Both submissions were transmitted to the Applicant on 15 July 2019 for his Reply within 30 days.
13. On 26 August 2019, the Applicant filed his Reply to the Respondent State's Response, which was transmitted to the Respondent State.
14. On 4 October 2019, the Registry notified the Embassy of the Republic of South Africa in Addis Ababa, Ethiopia of the Application and invited it to intervene, if it so wished.
15. On 18 May 2020, the Court informed the Parties that the time-limits for exchange of pleadings had been suspended due to the Covid-19 Pandemic. On 5 October 2020, the Court notified the Parties of the resumption of time limits with regard to the exchange of pleadings, with effect from 1 August 2020.
16. On 4 December 2020, the Registry requested the Applicant to file evidence in support of his claims on reparations within 30 days of receipt of the notice.
17. On 9 August 2023, the Applicant wrote a letter to the Court seeking legal assistance to submit on reparations and to engage the Respondent State on his continued detention despite having received a presidential pardon on 26 April 2021. The letter was transmitted to the Respondent State on the same day, with a request to submit its observations within 15 days from the date of receipt. The Respondent State acknowledged receipt of the letter on 11 October 2023 but did not file any observations.

18. The Court granted the Applicant's request for legal aid under the Court's Legal Aid Scheme and the Parties were duly notified on 10 December 2024. On 6 December 2024, Advocate Achilleus Romward⁶ agreed to represent the Applicant.
19. On 27 January 2025, Advocate Romward submitted his first quarterly progress report on the legal aid services rendered to the Applicant. In the aforementioned report, he informed the Court that he visited Ruanda Central Prison in Mbeya, on 21 June 2025, with the aim of consulting with the Applicant in order to file an amended Application and on reparations. However, upon arrival, the prison authorities informed him that the Applicant had been granted a presidential pardon on 26 April 2021, but his release was delayed, as he was required to pay a fine of, Three Billion, One Hundred Nineteen Million Seven Hundred Sixty Thousand Tanzanian Shillings (TZS 3,119,760,000). Counsel further reported that the prison authorities informed him that the matter had been subsequently referred to the Office of the Director of Public Prosecution and the Embassy of the Republic of South Africa in Tanzania, culminating in his release on 7 October 2023.⁷
20. Advocate Romward also reported that he was unable to obtain more information from the prison authorities regarding the presidential pardon. Counsel finally reported that his attempts to locate the Applicant proved futile as he only had information on the Applicant's home address and that of his brother in South Africa. Counsel surmised that despite his best efforts to get in touch with the Applicant using the two addresses on file, he failed to do so and as such was unable to confirm the Applicant's interest in further pursuing the case.
21. On 14 March 2025, the Registry acknowledged receipt of Advocate Romward's report.

⁶ Counsel registered on the Court's Roster to provide legal aid to Applicants before the Court.

⁷ Documents on file do not indicate whether the Applicant paid the fine or not.

22. On 3 April 2025, Advocate Romward filed a second progress report, receipt of which the Registry acknowledged on 24 April 2025. In the report, Counsel informed the Court that in spite of numerous attempts to establish contact with the Applicant, he was unsuccessful. He requested the Court to strike out the Application in line with Rule 65(1)(b), and (c) of the Rules⁸ on the grounds that the Applicant had failed to actively pursue his case. He also submitted that it was no longer justifiable to continue with the consideration of the case in the absence of instructions from the Applicant. Counsel cited the Court's decision in a similar, case of *Ahmed Ally v. United Republic of Tanzania*, where the Applicant, having been released by presidential pardon, had become unreachable.⁹ Counsel submitted that in the event that he receives formal instructions from the Applicant, he may apply for restoration of the Application.
23. On 21 August 2025, the Registry sent a final notice to the Applicant through the only available address as recorded at the Ruanda Central Prison in Tanzania, informing the Applicant that, should he fail to indicate his interest to pursue his Application within seven (7) days, the Court would exercise its power to proceed as it deemed necessary, in accordance with Rule 65 of the Rules.
24. Upon the expiry of the above-stated deadline, the Applicant did not reply.

IV. ON THE STRIKING OUT OF THE APPLICATION

25. The Court notes that the relevant Rule on striking out of Applications is Rule 65(1) of the Rules, which provides that:
1. The Court may at any stage of the proceedings decide to strike out an Application from its cause list where:

⁸ Rule 65(1)(b), and (c) of the Rules of Court, September 2020.

⁹ *Ahmed Ally v. United Republic of Tanzania* (strike out) (3 August 2021) 5 AfCLR 324, § 14.

- a) An Applicant notifies the Court of his/her intention not to proceed with the case;
 - b) An Applicant fails to pursue his case within the time limit provided by the Court;
 - c) It, for any other reason, concludes that it is no longer justified to continue with the examination of the Application.
26. As the Court has previously held, the above Rule requires that parties to an application should pursue their case with diligence.¹⁰ Where the parties implicitly or expressly indicate their lack of interest to do so, Rule 65 of the Rules empowers the Court to remove the Application from its cause list. The Court may also strike out an Application if, in the circumstances, it is no longer justified to continue with the determination of the matter.¹¹
27. The Court observes that the rationale behind Rule 65 of the Rules is to encourage parties to demonstrate some level of diligence in pursuing their case or else their application could be struck out from the cause list. Subject to the circumstances of each case, the Court retains the discretion to decide on whether a particular application should be struck out or not, in compliance with Rule 65(1)(a) - (c) of the Rules.
28. In the instant case, the Court observes that the legal representative of the Applicant has been unable to locate him despite numerous attempts since his release on 7 October 2023 following a presidential pardon of 26 April 2021.
29. The Court also notes that from 9 August 2023 when the Applicant requested legal assistance until 3 April 2025, the Applicant took no action to pursue his case. After this period of one (1) year, seven (7) months and 25 days, his Counsel requested the Court to strike out the Application for failure to locate the Applicant and, consequently, for lack of instructions to proceed.

¹⁰ *Abdallah Ally Kulkarni v. United Republic of Tanzania* (strike out) (25 September 2020) 4 AfCLR 556, § 18.

¹¹ *Magweiga Mahiri v. United Republic of Tanzania*, AfCHPR, Application No. 029/2017, Order of 24 March 2022 (strike out), § 21.

30. The Court finds that under these circumstances, it is reasonable to conclude that the Applicant was negligent in pursuing his Application. The Court also notes that it is no longer justifiable to continue with the examination of the Application and, therefore, decides to strike out the Application from its cause list pursuant to Rule 65(1)(b) and (c) of the Rules which is reiterated as follows:

1. The Court may at any stage of the proceedings decide to strike out an Application from its cause list where:
 - a) [...]
 - b) An Applicant fails to pursue his case within the time limit provided by the Court;
 - c) It, for any other reason, concludes that it is no longer justified to continue with the examination of the Application.

31. The decision to strike out the Application does not prevent the Applicant, by showing good cause, from applying for restoration of his matter to the Court's cause list pursuant to Rule 65(3) of the Rules.¹²

V. OPERATIVE PART

32. For these reasons:

The COURT,

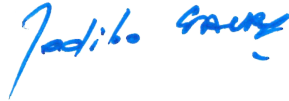
Unanimously,

¹² *Thomas Boni Yayi v. Republic of Benin*, ACTHPR, Application No. 023/2019, Decision of 22 September 2022 (strike out), § 14. See also, *Mohamed Ali Abess v. Republic of Tunisia*, ACTHPR, Application No. 026/2018, Decision of 23 June 2022 (strike out), § 29.

- i. Orders that *Application No. 001/2019 – Vuyo Jack v. United Republic of Tanzania*, be hereby struck out from the cause list of the Court.

Signed:

Modibo SACKO, President;



and

Grace W. KAKAI, Deputy Registrar.



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

