Arusha, Tanzania
Website: www.african-court.org
Telephone: +255-272-510-510

JUDGMENT SUMMARY

PATROKLOS TSAPERAS
V.
REPUBLIC OF MALAWI

APPLICATION NO. 007/2022

RULING ON JURISDICTION AND ADMISSIBILITY

13 NOVEMBER 2026

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

Arusha, 13 November 2026: The African Court on Human and Peoples' Rights (the Court) today delivered a Ruling in the case of *Patroklos Tsaperas v. Republic of Malawi*.

Patroklos Tsaperas (the Applicant) is a national of the Republic of South Africa and a director of the Malawi Mobile Limited (MML). He alleged that, in proceedings before national courts, the Republic of Malawi (the Respondent State) violated his right to property, his right to freedom from discrimination, his right to equal protection of the law, his right to be recognised as a person before the law and his right to have his cause heard, protected under Articles 2, 3, 7(1) and 14 of the African Charter on Human and Peoples' Rights (the Charter), Article 17 of the Universal Declaration of Human Rights and Articles 14, 16 and 26 of the International Covenant on Civil and Political Rights (the ICCPR) respectively. He also prayed the Court for reparations.

In accordance with Article 3 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) and Rule 49(1) of the Rules of Court (the Rules), the Court preliminarily examined its jurisdiction. The Court found that it had personal jurisdiction since, on 9 October 2008, the Respondent State became a Party to the Protocol and deposited the Declaration provided for under Article 34(6) thereof, which allows

individuals and Non-governmental organisations to file applications directly before the Court. The Court held that it had material jurisdiction because the Applicant alleged violations of rights protected under the Charter and the ICCPR, to which the Respondent State is a party.

On temporal jurisdiction, the Court noted that, although the events giving rise to the dispute began in 2005, before the Respondent State became a party to the Protocol, the Applicant's claims also concerned domestic judicial proceedings, which took place after that date. The Court therefore held that it had temporal jurisdiction. Lastly, it found that it had territorial jurisdiction, given that the alleged violations occurred within the territory of the Respondent State. Accordingly, the Court held that it had jurisdiction to hear the Application.

The Court observed that, pursuant to Article 6(2) of the Protocol and Rule 50(1) of the Rules, it must rule on the admissibility of the Application in accordance with Article 56 of the Charter, the conditions of which are restated in Rule 50(2) of the Rules. The Respondent State raised two objections to admissibility: first, that the Applicant had not exhausted local remedies; and second, that the Application had not been filed within a reasonable time.

On the objection based on non-exhaustion of local remedies, the Respondent State argued that the domestic proceedings concerned only breach of contract and the tort of inducement, furthermore, no human rights violations had been pleaded before the national courts. The Court examined each claim separately. With respect to the right to property, the Court recalled that, in determining whether proceedings instituted by a company may be attributed to an individual applicant, regard must be had to the link between the applicant and the company. In this regard, the Court found that the Applicant had established a sufficient link to MML through his indirect shareholding, and that the proceedings pursued by MML up to the Malawi Supreme Court of Appeal (MSCA) had placed the substance of the dispute before the national courts. The Court therefore held that the Applicant had exhausted local remedies in respect of his claim on the right to property.

However, the Court found that the Applicant had not exhausted local remedies in respect of his remaining claims. With regard to the allegation that the MSCA was inquorate when it delivered its judgment, the Court recalled that it is not enough for an applicant to cast aspersions on the effectiveness of domestic remedies without attempting to exhaust them. Concerning the alleged violation of the rights to equality before the law and equal protection of the law, which related to the alleged non-execution of the High Court's constitutional judgment in favour of the former Chairman of Malawi Communication Regulation Authority, the Court found that the Applicant had not initiated any execution proceedings. With respect to his claims of discrimination on grounds of nationality and race and of the right to be recognised as a person before the law, the Court also found that the Applicant adduced no evidence of exhaustion of local remedies, nor did he demonstrate that any exception to this requirement applied.

The Court accordingly dismissed the objection in respect of the claim on the right to property, but upheld it in respect of the other claims.

On the objection that the Application was not filed within a reasonable time, the Respondent State argued that the Applicant was neither imprisoned nor indigent, had enjoyed continuous legal representation and had offered no justification for the delay. The Court noted that the time limit to be considered was from 10 March 2015, the date of the MSCA judgment to 17 October 2022, that is, seven years, seven months and seven days. In its decision, the Court found that this period was manifestly longer than what it has considered acceptable and that, in the absence of any compelling justification, it constituted an unjustified and excessive delay. The Court therefore upheld the Respondent State's objection and found that the Application was not filed within a reasonable time, in breach of Rule 50(2)(f) of the Rules.

Since the conditions of admissibility are cumulative, the Court did not consider the remaining conditions and declared the Application inadmissible.

The Respondent State prayed for the Applicant to bear the costs. The Court in this regard noted that it does not charge filing fees and that the Respondent State had not shown that it had incurred any costs. It therefore ordered each Party to bear its own costs.

Pursuant to Article 28(7) of the Protocol and Rule 70(2) of the Rules, Justice Suzanne Mengue appended a Separate Opinion to the Ruling.

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://ajudata.african-court.org/details-case/0072022

For any other queries, please contact the Registry via the following email address: 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