


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

## **CASE SUMMARY**

**APPLICATION NUMBER 007/2013**

**MOHAMED ABUBAKARI V. UNITED REPUBLIC OF TANZANIA**

### **SUMMARY OF THE FACTS**

1. The Applicant, Mr. Mohamed Abubakari a Tanzanian national, filed an application before the Court against the United Republic of Tanzania, on 8 October 2013.
  
2. In the Application, the Applicant alleged that he was arrested by the police on 10 April 1997 while he was in his home, and that he was kept in police custody until 14 April 1997. Afterwards, he was tried and convicted of the offence of armed robbery and sentenced by the District Court of Moshi on 21 July 1998, to thirty (30) years imprisonment. His appeals to the High Court and Court of Appeal were dismissed.

## **ALLEGED VIOLATIONS**

3. The Applicant raised several complaints with regards to the manner in which he was detained, tried and convicted by the Tanzanian police and judicial authorities. In particular, he complained of the following:
  - i. Being detained at a police post which had no basic facilities appropriate for receiving suspects;
  - ii. Being sentenced on the basis of an indictment marred by irregularities;
  - iii. A prosecution by a State Attorney who had a conflict of interest in relation to the armed robbery victim;
  - iv. Not having been afforded the right to defend himself and the assistance of a lawyer at the time of his arrest;
  - v. Not having been afforded the right to the free assistance of a lawyer during the judicial process;
  - vi. Having been discriminated against;
  - vii. Having not promptly received communication of the indictment and the statements of the prosecution witnesses to be able to defend himself;
  - viii. Having been convicted on the basis of the testimony of a single witness, fraught with contradictions, in the absence of any identification parade;
  - ix. Being convicted despite the fact that the crime weapons and the items stolen were not found;
  - x. Having been sentenced to thirty years in prison, a punishment which was not applicable at the time of the offence; and
  - xi. The judgment by which he was convicted and sentenced was not delivered in open court.

## **APPLICANT'S PRAYERS**

4. The Applicant, in his submissions, and during the Public Hearing prayed the Court for the following:
  - i. A declaration that the Respondent State violated the Applicant's right to a fair trial;

- ii. A declaration that the Respondent State violated the Applicant's right to legal aid and representation;
- iii. An Order of the Court that the Courts of the Respondent State re-examine the Applicant's trial and conviction in light of the multiple violations of his fair trial rights;
- iv. An Order that the Respondent State provide legal aid and representation to the Applicant;
- v. An Order that proceedings for reparations should follow the various declarations of violations of the rights of the Applicant;
- vi. Any further declarations or orders as it deems necessary in the circumstances of the case.

#### **RESPONDENT STATE'S RESPONSE**

5. In its written submissions and during the Public Hearing, the Respondent State prayed the Court, in respect of jurisdiction, admissibility and merits as follows:
  - i. That the Applicant has not evoked the jurisdiction of the African Court;
  - ii. That the Application has not met the admissibility requirements stipulated under paragraphs 1 to 7 of Rule 40 of the Rules of Court and Article 56 of the Charter and Article 6(2) of its Protocol;
  - iii. That the Application be dismissed pursuant to Rule 38 of the Rules of Court;
  - iv. That the Government of the United Republic of Tanzania did not illegally arrest the Applicant;
  - v. That the Government of the United Republic of Tanzania did not illegally detain the Applicant;
  - vi. That the Government of Tanzania did not violate the right of the Applicant to be represented by a lawyer;
  - vii. That the Government of Tanzania did not violate the Applicant's right to defend himself;

- viii. That the Government of the United Republic of Tanzania did not violate the Applicant's right to equality before the law;
- ix. That the Government of the United Republic of Tanzania did not discriminate against the Applicant;
- x. That the Government of the United Republic of Tanzania did not infringe Section 311 of the Tanzanian Criminal Code;
- xi. That Applicant's conviction based on the testimony of a single witness is in conformity with the law;
- xii. That the prosecution witness in the initial Criminal Case No 397/1997 did not make contradictory submissions;
- xiii. That the Applicant's conviction to thirty years imprisonment for armed robbery is in conformity with the law;
- xiv. Order the Applicant to pay costs;
- xv. That no reparation be granted to the Applicant with regard to this Application; and
- xvi. That the Application be duly dismissed.