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AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

CASE SUMMARY

APPLICATION NO 001/2015

ARMAND GUEHI.....APPLICANT

V

UNITED REPUBLIC OF TANZANIA.....RESPONDENT

SUMMARY OF FACTS

1. The Applicant, an Ivorian national, alleges that he moved to the United Republic of Tanzania on 1 May 2004 as a dependent of his spouse who was an Ivorian citizen working for International Criminal Tribunal for Rwanda (ICTR).
2. The Applicant alleges that, on 6 October 2005, he was arrested by the security officers of the ICTR in connection with the disappearance of his wife and he was handed to local police and detained.
3. On 18 October 2005 he was charged before the High Court of Tanzania for murdering his wife. After a full trial he was found guilty, convicted and sentenced to death on 30 March 2010.
4. On 28 February, 2014, after hearing the appeal, the Court of Appeal of Tanzania upheld the Applicant's conviction passed by the High Court of Tanzania at Moshi and confirmed the death sentence.

5. The Applicant alleges that his conviction cannot be said to have been fairly and justly arrived. He alleges that his right to fair trial was prejudiced, and several of his rights were violated in the process.
6. He further alleges that , apart from the trial in 2010, the Respondent did not provide him with language assistance at critical stages of the case, such as when he was interviewed and recorded his statements at the Police Station, whereas, at the time of his arrest, he only properly spoke and understood French language.
7. The Applicant further alleges that the Respondent failed to facilitate consular assistance.
8. He also alleges that after his arrest the Respondent failed to secure his properties in his house in Arusha and as a result the said properties were arbitrarily disposed of.

JURISDICTION

9. The Applicant alleges that the United Republic of Tanzania violates his rights which are contained in international human rights treaties.

ADMISSIBILITY

10. On admissibility the Applicant alleges that the Court of Appeal of Tanzania (The Court which dismissed his appeal) is the highest court in Tanzania. Though he sought a review of his conviction and sentence, before the Court of Appeal, under the Tanzanian system reviews are subject to approval and are not as of right, therefore there is no guarantee on the hearing of review.

APPLICANT'S PRAYERS

11. The Applicant prays for;
 - (i) The conviction to be quashed and sentence be set aside.
 - (ii) An order of restitution of his properties or reparations.

RESPONDENT'S PLEADINGS

12. The Respondent raises a preliminary objection regarding the Court's jurisdiction. The Respondent contends that the Jurisdiction of the Court has not been invoked.
13. In the alternative, the Respondent is challenging the admissibility of the Application before the Court as it does not satisfy the conditions for admissibility pursuant to Rules 40(5) and 40(6) of the Rules of the Court. The Respondent contends that there was no exhaustion of local remedies and the Application was filed out of time.
14. On merits the Respondent submits that;
15. "The Applicant was duly conversant in the English language and at no point did he state he was not conversant with the English language. The only time when language was a barrier was during his trial as witnesses testified in Kiswahili, but he was provided with an interpreter during his trial".
16. The allegations that the Respondent did not ensure/conduct a proper, fair, professional and diligent investigations are vague, frivolous and should be dismissed because the case was well investigated in accordance of the Criminal Procedure Act (Cap 20 R:E 2002)
17. The allegations of manipulation of the Cautioned Statement of the Applicant recorded at the Police Station and later used against him during the trial were not true.
18. The Respondent maintains that, it is not true that the Respondent never facilitated consular assistance for the Applicant, because the Applicant was provided with free legal counsel during his trial at the High Court and in his appeal at the Court of Appeal.
19. The allegations on the right to property are vague and lack merit as there has been no violation of the Applicant's right to property.

20. Further to that the Respondent informs the Court on the intention to seek leave to file additional matters of evidence as per Rule 50 of the Rules of the Court.

RESPONDENT'S PRAYERS

21. The Respondent prays the Court to give/grant the following orders;

22. On Jurisdiction

- i. The Application should be dismissed because the Court has no jurisdiction to entertain this matter.

23. On admissibility

- i. The Application should be declared admissible for failure to meet the conditions of Rule 40(5) on exhaustion of local remedies and Rule 40(6) that the Application was filed out of time.

24. With respect to the Merits of the Application, the prayers are;

- I. The Applicant to continue to serve his sentence
- II. The Application to be dismissed for lack of merit
- III. The Applicant's prayer for reparations be dismissed
- IV. Costs of the Application and
- V. Any other remedies the Court may deem fit to grant.

25. The reasons are;

- i. The Government of the United Republic of Tanzania has not violated Article 14 of the Charter
- ii. The Applicant's conviction is lawful