

**PRESS RELEASE  
JUDGMENT SUMMARY**

**RAMADHANI ISSA MALENGO v. UNITED REPUBLIC OF TANZANIA**

**APPLICATION NUMBER 030/2015**

**RULING [JURISDICTION AND ADMISSIBILITY] 4 JULY 2019**

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

Date of Press Release: 4 July 2019

**Arusha, 4 July 2019:** Today, the African Court on Human and Peoples' Rights (the African Court or the Court) delivered its Ruling in the case of *Ramadhani Issa Malengo v. Republic of Tanzania*.

The Applicant, Mr. Ramadhani Issa Malengo, who is a tobacco farmer, entered into a contract with a Cooperative Society, Dimon Tanzania Limited in which he was to sell his tobacco to the Cooperative in return for the Cooperative giving him a loan of Tanzanian Shillings One Million, Three Hundred and Ninety Thousand (TZS 1,390,000). The Cooperative Society only advanced Tanzanian Shillings Seven Hundred Thousand (TZS 700,000) and the Applicant then sued the Cooperative Society in the national courts for breach of contract and was awarded Tanzanian Shillings Six Million (TZS 6,000,000) as damages. Dissatisfied with the award, the Applicant filed an application against the United Republic of Tanzania (Respondent State) alleging that the decision of the Tanzanian national courts violated his right to a fair trial under the African Charter on Human and Peoples' Rights (the Charter). The Applicant further alleged that the Respondent State violated his right to liberty and security because he was held against his will without justification at the Tabora Police station on 30 April 1997. According to the Applicant, the violations of his rights ought to be repaired in accordance with Article 27(1) 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 34(5) of the Rules of Court (the Rules) through the payment of compensation.

The Respondent State raised an objection on the jurisdiction of the Court stating that the Application neither made reference to nor requested for the interpretation of the Charter, the Protocol or any relevant human rights instruments ratified by the Respondent State. The Court observed that the Applicant alleged various human rights covered by the Charter and therefore dismissed the Respondent State's objection. With regard to other conditions of jurisdiction provided for in Article 3(1) of the Protocol, the Court held it had personal jurisdiction given that

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the Respondent State is a Party to the Protocol and has deposited the Declaration prescribed under Article 34(6) of the Protocol. **The Court determined that its temporal and territorial jurisdiction were confirmed given that the Applicant's alleged violations happened after the ratification of the Charter by the Respondent State which guarantees the rights that were allegedly violated and the alleged violations are yet to be repaired, also because the alleged violations took place in the Respondent State's territory.** The Court therefore determined that it had jurisdiction to consider the matter.

On the admissibility of the Application, the Court noted that the Respondent state raised two objections, that is, the Application is not compatible with Constitutive Act of the African Union and that the Applicant failed to file his Application within a reasonable time after exhaustion of local remedies. In accordance with Article 6(2) of the Protocol and Rule 39 (1) of the Rules, the Court considered whether the requirements of admissibility as provided under Article 56 of the Charter and Rule 40 of the Rules have been met. The Court held that the Application was compatible with the Constitutive Act of the African Union as it alleged violations of human rights and one of the objectives of the Constitutive Act of the African union is to "promote and protect human and peoples' rights..."

The Court then assessed the requirement of filing an Application within a reasonable time after exhaustion of local remedies as required by Article 56 (6) and Rule 40(6) of the Rules. In this regard, the Court noted that it had to first evaluate whether local remedies had been exhausted as the two conditions are interrelated. The Court in its assessment observed that the Applicant only raised two human rights claims, that is, undue delay of his trial and confinement for eight (8) hours against his will. The Court noted that the Applicant had not raised any of these allegations in the national courts. Further, the Court noted that the other prayers of the Applicant could not be considered as human rights matters as they were civil claims. To this end, the Court held that the local remedies were not exhausted and thus the Application did not meet the requirement of Article 56(5) of the Charter and Rule 40(5) of the Rules. Following this finding, the Court decided that the issue of the filed within a reasonable time did not arise.

The Court therefore, concluded that since the admissibility requirements under the Charter and the Rules are cumulative, an Application that fails to meet one of the requirements fails the admissibility test. The Application was, thereby, declared inadmissible.

On **costs**, the Court ordered that each Party should bear its own costs.

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### **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 <http://en.african-court.org/index.php/56-pending-cases-details/893-app-no-030-2015-ramadhani-issa-malengo-v-united-republic-of-tanzania-details>

*For any other queries, please contact the Registry by email [registrar@african-court.org](mailto:registrar@african-court.org) and [africancourtmedia@gmail.com](mailto:africancourtmedia@gmail.com) The African Court on Human and Peoples' Rights is a continental court established by African countries 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](http://www.african-court.org)*