

033/2016
04/03/2019
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AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES P.O Box 6274 Arusha, Tanzania- Telephone: +255 732 979506/9; Fax. +255 732 979503		

THE MATTER OF
MAKUNGU MISALABA

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 033/2016

ORDER

4 March 2019



The Court composed of: Sylvain ORÉ, President; Ben KIOKO, Vice-President; Rafaâ BEN ACHOUR, Ângelo V. MATUSSE, Suzanne MENGUE, M-Thérèse MUKAMULISA, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAYA, Stella I. ANUKAM, Judges; and Robert ENO, 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 8(2) of the Rules of Court (hereinafter referred to as "the Rules"), Justice Imani D. ABOUD, member of the Court and a national of Tanzania, did not hear the Application.

In the matter of:

Makungu MISALABA

represented by:

Mr Fulgence MASSAWE, Advocate

versus

UNITED REPUBLIC OF TANZANIA,

represented by:

Dr. Clement Julius MASHAMBA, Solicitor General, Attorney General's Chambers.

after deliberation,

issues the following Order:

I. THE PARTIES

1. The Applicant, Mr. Makungu Misalaba (hereinafter referred to as "the Applicant"), is a national of the United Republic of Tanzania. He was convicted of murder, contrary to Section 196 of the Penal Code of the United Republic of Tanzania (Cap 16 RE 2002), by the High Court of Tanzania at Magu, in Criminal Case No 121 of 2012 and subsequently sentenced to death on 3 October 2013. His appeal to the Court of Appeal was dismissed on 30 October 2014. He then filed his Application before the Court on 8 June 2016.
2. The Respondent State, the United Republic of Tanzania, 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 on 10 February 2006. On 29 March 2010, the Respondent State deposited the declaration as required under Article 34(6) of the Protocol.

II. PRAYERS OF THE PARTIES

3. In his application for leave, dated 23 January 2019, the Applicant requests:
“
 - i. Permission from the Court to file further evidence in his defence, pursuant to Rule 50 of the Rules of Court;
 - ii. Permission to amend and supplement Application No. 033/2016 so as to include, inter alia, a request for reparations, pursuant to Rule 34 of the Rules of the Court; and”

- iii. That the Court defer drafting judgment in this matter until the Applicant has had the opportunity to make the contemplated further submissions.”

4. The Respondent State did not respond to the prayers of the Applicant.

THE COURT:

- i. Grants the Applicant leave to amend his application and submit further evidence in support of the same, all documents to be filed within thirty (30) days of notification of this Order.
- ii. Grants the Applicant leave to file his submissions on reparations within thirty (30) days of notification of this Order.

Signed:

Sylvain ORÉ, President
and Robert ENO, Registrar.



Done at Arusha, this Fourth Day of March in the Year Two Thousand and Nineteen, in English and French, the English text being authoritative.

