


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		

**APPLICATION NO. 043/2020**

**DEUSDEDIT VALENTINE RWEYEMAMU AND PAUL REVOCATUS KAUNDA**

**VS**

**UNITED REPUBLIC OF TANZANIA**

**CASE SUMMARY**

## THE PARTIES

1. Deusdedit Rweyemamu and Paul Kaunda (hereinafter referred to as “the Applicants”) are nationals of the United Republic of Tanzania. They claim that they seek to promote internationally recognised human rights norms and standards in Tanzania. The Application is filed against the United Republic of Tanzania.

### I. SUBJECT OF THE APPLICATION

#### A. Facts of the matter

2. The Applicants aver that Articles 74(1) and 74(12) of the Constitution of the Respondent State<sup>1</sup> and Article 119(13) of the Constitution of Zanzibar<sup>2</sup> violate provisions of the Charter, the Universal Declaration of Human Rights (hereinafter referred to as “the UDHR”), the International Covenant on Civil and Political Rights (hereinafter referred to as “the ICCPR”). It is also the Applicants’ contention that the earlier mentioned provisions also contravene the Respondent State’s Constitution.
3. The Applicants contend that Articles 2, 3 and 7 of the Charter and Articles 7, 8 and 14(1) of the UDHR have been violated by Articles 74(1) and 74(12) of the

---

<sup>1</sup> Article 74.-(1) There shall be an Electoral Commission of the United Republic which shall consist of following members to be appointed by the President:

(a) a Judge of the High Court or a Justice of the Court of Appeal, who shall be the chairman;

(b) a Vice-Chairman;

(c) other members to be specified by a law enacted by Parliament.

Article 74 (12) No court shall have power to inquire into anything done by the Electoral Commission in the discharge of its functions in accordance with the provisions of this Constitution.

<sup>2</sup> Section 119(3) 3) The following persons shall not be appointed as Members of the Zanzibar Electoral Commission:

(a) Minister or Deputy Minister;

(b) Member of the House of Representatives, or a Member of the armed forces of Tanzania or occupies a position which in law does not permit him to be Member of the Commission.

(c) a Member of Parliament or any other person in position of responsibility referred to in any law enacted by Parliament in terms of the conditions in paragraph (9) of sub-article (2) of article 67 of the Union Constitution.

(d) a leader of any political party.

Constitution of the Respondent State and Article 119(13) of the Constitution of Zanzibar. According to the Applicants, the provisions of the Charter, the UDHR and the Respondent State's Constitution, have been violated "by Article 74(12) of the URT Constitution and Section 119(13) of the Constitution of Zanzibar which unreasonably restricts individuals access to Court."

## **B. Alleged violations**

### **4. The Applicants allege as follows:**

That Article 74(12) URT Constitution and Section 119(13) of the Constitution of Zanzibar violates these provisions by affecting two categories of entities, individuals and the judiciary, the former are denied their basic rights enshrined in the Constitution and other relevant international human rights instruments through arbitrarily and unreasonably denying individuals access to Courts for remedies and having a discriminatory effect while the latter being negatively affected through the restriction of the fundamental functions which is the dispensation of justice by including a mandatory provision which renders the judiciary functionless in determining matters arising from the decisions of the National Electoral Commission (NEC) and Zanzibar Electoral Commission (ZEC).

## **II. APPLICANTS' PRAYERS**

### **5. The Applicants pray the Court to order the following:**

- a) The Respondent is in violation of Art 1, 2, 3(2) and 7(1) of the African Charter on Human and Peoples' Rights.
- b) The Respondent amend its Constitutional and Legal framework and align it with the Charter to allow persons to challenge decisions of NEC and ZEC within 18 months from the date of issuance of judgment.
- c) The Respondent reports to the Honourable Court every twelve (12) months from the date of the judgment issues by the Honourable Court, on the implementation of this judgment and consequential orders until the judgment of the Court is fully implemented.
- d) An order directed to the Respondent to publish the Judgment of the Court on her official website in both English and Kiswahili at her own costs and the same to remain available for a period of one (1) year from the date the judgment is published.
- e) Make an order that Respondent put in place civic education campaigns/specific programs that will create awareness to the general public of the consequences of the Judgment of the Court.
- f) The Respondent to pay the Applicants' costs.

g) Any other remedy and/or relief that the Honourable Court will deem to grant.