

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
<p style="text-align: center;">AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</p>		

SUMMARY OF THE APPLICATION

MHINA ZUBERI V. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 054/2016

I. THE PARTIES

1. Mr. Mhina Zuberi (hereinafter referred to as "the Applicant") is a Tanzanian national who, at the time of filing the Application, was serving a 30-year sentence at Maweni Central Prison in Tanga for rape of a ten-year-old girl.

2. The Application is brought against the United Republic of Tanzania (hereinafter "the Respondent State"), which became a Party to the African Charter on Human and Peoples' Rights (hereinafter "the Charter") on 21 October 1986 and to the Protocol on 10 February 2006. It also deposited, on 29 March 2010, the declaration provided for in Article 34(6) of the Protocol, by which it accepts the Court's jurisdiction to receive applications directly from individuals and non-governmental organisations. On 21 November 2019, the Respondent State deposited with the

Chairperson of the African Union Commission an instrument of withdrawal of its Declaration. The Court has ruled that the withdrawal of the Declaration by the Respondent State would take effect on 22 November 2020.

II. SUBJECT OF THE APPLICATION

3. It emerges from the Application that on 25 March 2014 at approximately 7.00 am, while on her way to school, the victim passed by her schoolmate's house so that they could go to school together. When she arrived at the latter's house, she was not yet ready. While she waited outside on a bench for her classmate, the Applicant asked her to follow him to his room because he wanted her to buy him cigarettes. As soon as she entered the room, the Applicant locked the door and raped her. The incident was reported to the police and measures were taken with a view to criminal prosecution. The Applicant alleges that the case was fabricated by the victim's mother with whom he had a quarrel over a place he rented for showing videos to the villagers. He contends that the victim's mother allegedly bribed a police officer to disregard the quarrel and instead fabricate a rape charge of a minor against him.

4. Following the conclusion of the investigations, on 30 September 2014, in Criminal Case No. 38/2014, the Muheza District Court (hereinafter referred to as the "District Court") found the Applicant guilty of rape and sentenced him to thirty (30) years' imprisonment pursuant to Articles 130(2)(e) and 131(1) of the Criminal Code of Tanzania. The Applicant appealed against this ruling on 4 May 2015 to the High Court of Tanzania sitting in Tanga (hereinafter referred to as "the High Court") in Criminal Appeal No. 24/201524/201, which upheld the ruling of the District Court on 9 September 2015. Subsequently, on 10 September 2015, the Applicant appealed the decision of the High Court to the Court of Appeal of Tanzania sitting in Tanga (hereinafter referred to as "the Court of Appeal") in Criminal Appeal No.

36/2016. The Appeal Court, in turn, upheld the decision of the High Court on 30 June 2016.

5. The Applicant brought the matter before the Court on 2 September 2016.

III. ALLEGED VIOLATIONS

6. The Applicant alleges the following violations:

- i. He was not provided with legal representation before the domestic courts;
- ii. He was deprived of his right to call witnesses on his behalf, in violation of Article 13 of the 1977 Constitution of the Respondent State (hereinafter referred to as "the Constitution"), Article 310 of the Code of Criminal Procedure and the Universal Declaration of Human Rights;
- iii. There were errors of fact and law in the assessment of the evidence adduced.

IV. PRAYERS OF THE PARTIES

A. Applicant's prayers

7. The Applicant prays the Court "to restore his rights which were violated by the Respondent State, to annul the conviction and sentence imposed on him by the lower courts and to order the Respondent State to pay him reparations for all the violations he suffered".
8. The Applicant prays the Court to award him a total amount of Four Million Six Hundred Thousand (4,600,000) Tanzanian shillings, with any other adjustments to the amount as deemed necessary, and to order his release.

B. Respondent State's prayers

9. The Respondent State prays the Court to:
 - i. Declare that the Court has no jurisdiction and that the Application is inadmissible;
 - ii. Find that it has not violated Articles 3 and 7(1)(c) of the Charter;
 - iii. Find that it has not deprived the Applicant of his right to legal representation;
 - iv. Dismiss the Application as unfounded;
 - v. Find that the Applicant is not entitled to any reparation;
 - vi. Dismiss all the measures requested by the Applicant;
 - vii. Declare that the costs of the proceedings are to be borne by the Applicant.