



PRESS RELEASE
JUDGMENT SUMMARY

KIJJI ISIAGA v. UNITED REPUBLIC OF TANZANIA
APPLICATION NO. 032/2015
JUDGMENT ON REPARATIONS

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

Date of Press Release: 25 June 2021

Arusha, 25 June 2021: Today, the African Court on Human and Peoples' Rights (the Court) delivered its judgment on reparations in the case of *Kijji Isiaga v. United Republic of Tanzania*.

The Applicant, Kijji Isiaga, a Tanzanian national and a convict, alleged that his right to a fair trial had been violated by the United Republic of Tanzania (hereinafter referred to as "the Respondent State") when the local courts of the latter allegedly relied on contestable evidence to convict and sentence him. He also alleged that he was not provided with legal assistance in the domestic proceedings despite him being lay and indigent. By a judgment delivered on 21 March 2018, the Court found that the Respondent State violated Article 7 (1) (c) of the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter"), by failing to provide free legal assistance to the Applicant.

Relying on the said judgment, on 9 May 2018, the Applicant filed written submissions on reparations. In his submissions, the Applicant asserted that before his arrest, he was a peasant with a wife, children and parents who depended on him. He also stated that the family's sole source of income was farming and this was disrupted after his arrest and subsequent conviction for offences of armed robbery and inflicting bodily injury. Accordingly, the Applicant prayed the Court to grant him pecuniary reparations for the period he has spent in custody calculated on the basis of the per capita income of the Respondent State. The Applicant also requested that, alternatively, the Respondent State may *proprio motu* take measures to release him from prison in lieu of the pecuniary reparations.

On its part, the Respondent State contended that the Applicant was not a victim of deliberate actions or negligence on the part of the Respondent State but rather that of his own actions. It argued that the Applicant was convicted and sentenced for crimes he committed and affected the rights of other ordinary citizens, and the action to take him before the court of law was in exercise of its



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obligation to protect the rights of innocent citizens. Furthermore, the Respondent State averred that the Applicant has not adduced any evidence to support the claim for material damages suffered as direct victim because of the violation established by the Court. Consequently, the Respondent State prayed the Court to declare that the Applicant's prayer for reparations has no merit and dismiss his Application.

In its judgment on reparations, the Court considered the Applicant's prayers for both pecuniary and non-pecuniary reparations.

As regards pecuniary reparations, the Court reiterated its case law where it stated the general rule that, for material prejudice, there must be a causal link between the alleged violation and the prejudice suffered and the burden of proof is on the applicant; and for moral prejudice, presumptions are made in favour of the applicant and the burden of proof shifts to the Respondent State.

On this basis, with respect to the instant Applicant's prayer for pecuniary damages for moral prejudice, the Court recalled its decision on merits where it established that the Respondent State had violated the Applicant's right to free legal assistance contrary to Article 7 (1) (c) of the Charter and in exercising its jurisdiction in equity awarded the Applicant the amount of Three Hundred Thousand Tanzanian Shillings (TZS 300, 000) as fair compensation

On the other hand, regarding the prayer for pecuniary damages for material prejudice, the Court noted that the Applicant did not adduce evidence showing that he suffered any material prejudice as a result of the Respondent State's violation of his right to free legal assistance. For this reason, the Court dismissed the Applicant's prayer for pecuniary damages for material prejudice.

The Court also examined if the alleged indirect victims were to be awarded any pecuniary reparations. After going through the Applicant's prayers, the Court did not find it necessary to consider awarding reparations for indirect victims, as the Applicant did not request for it and in any event, he failed to provide evidence of familial relations with the alleged family members for whom he claimed to be the sole provider.

Concerning non-pecuniary damages, the Court also looked into the Applicant's prayer for release and noted that it had already addressed this prayer in its judgment on merits. Accordingly, the Court held that it did not find it necessary to consider the prayer again.



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

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://www.african-court.org/en/index.php/56-pending-cases-details/879-app-no-014-2015-jibu-amir-mussa-another-v-united-republic-of-tanzania-case-summary-details>.

For any other queries, please contact the Registry by email registrar@african-court.org.

The African Court on Human and Peoples' Rights is a continental court established by African Union Member States 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.