


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		

CASE SUMMARY

APPLICATION NUMBER 002/2017

**ERNEST KARATTA, WALAFRIED MILLINGA, AHMED KABUNGA AND
1744 OTHERS V. UNITED REPUBLIC OF TANZANIA**

I. SUMMARY OF THE FACTS

1. The Applicants, Ernest Karatta, Walafried Millinga, Ahmed Kabunga and 1744 (hereinafter referred to as “the Applicants”) are all former employees of the defunct East African Community (EAC). They filed their Application against the United Republic of Tanzania (hereinafter referred to as “the Respondent State”) on 26 January 2017.
2. In their Application, the Applicants allege a violation of various rights allegedly due to the Respondent State’s failure to pay them their terminal benefits.

II. ALLEGED VIOLATIONS

3. The Applicants allege a violation of their right to be entitled to the enjoyment of all rights in the African Charter on Human and Peoples (hereinafter “the Charter”) without discrimination - Article 2 of the Charter; the right to equal protection of the

law – Article 3(2) of the Charter; the right to property – Article 14; and the right to work under equitable and satisfactory conditions – Article 15 of the Charter.

4. It is also the Applicants' contention that the Respondent State has violated Articles 6 and 7 of the International Covenant on Economic Social and Cultural Rights (hereinafter "the ICESCR") in relation to their right to work and the right to just and favourable conditions of work.

III. APPLICANTS' PRAYERS

5. On the merits, the Applicants pray the Court to:
 - i. Declare that the Respondent is in violation of Article 2 of the African Charter on Human and Peoples' Rights.
 - ii. Declare that the Respondent is in violation of Article 3(2) of the African Charter on Human and Peoples' Rights
 - iii. Declare that the Respondent is in violation of Article 14 of the African Charter on Human and Peoples' Rights.
 - iv. Declare that the Respondent is in violation of Article 15 of the African Charter on Human and Peoples' Rights.
 - v. Declare that the Respondent is in violation of Article 6 and 7 of the International Covenant on Economic Social and Cultural Rights.
 - vi. Make an Order the Government of the United Republic of Tanzania to put in place the necessary constitutional, legislative and other measures to guarantee the right to guaranteed under Article 2, 3(2), 14 and 15 of the African Charter.
 - vii. Order that the Respondent should respect and fulfil the rights claimed by the Applicants herein.
 - viii. Order that the Respondent should pay the claimed sums by the Applicants herein.
 - ix. Order for reparations to the Applicants in respect of trauma, anguish, suffering and unprecedented delay by the Respondent.
 - x. Order that the Respondent must report to the Executive Council the implementation of this judgment.

- xi. Any other such relief(s) and or measures as the Court may deem fit and just to grant.

6. On reparations, the Applicants pray the Court to grant the following:

- (i) Restoration of the Applicants rightful monies a sum of TSH 564 743 132 202.83. Ought to be payable to the Applicant as direct victims of the prejudice suffered.
- (ii) The amount of USD 20 000 for each of the 1747 victims for moral damages suffered to them severally.
- (iii) The amount of USD 6 000 on top of every victim's payments as token compensation for moral damages suffered at least four of their indirect victims. Each USD 1500.
- (iv) Honourable Court grants the Applicants USD 4000 for legal fees during the national proceedings where he was presented by their Advocates in the High Court and Court of Appeal proceedings.
- (v) The amount of USD 20 000 in legal fees at the Court.
- (vi) The amount of USD 15 200 for expenses incurred.
- (vii) Without prejudice to prayers (i) to (vii) – a written apology by the Respondent to each of the Applicants.
- (viii) Any other such relief that this Court will deem just and fair to grant to the Applicants

7. The Applicants further pray:

...

- b) ... that this Honourable Court applies the principle of proportionality when considering the award for compensation to be granted ...
- c) ...that this Honourable Court makes an order that the Respondent guarantees non-repetition of these violations to them and that the Respondent is required to report back to this Honourable Court every six months until they satisfy the orders this Court shall make when considering the submission for reparations.

- d) ... the Government publishes in the national Gazette the decision on the merit of the main Application within one month of delivery of judgment as a measure of satisfaction.

IV. RESPONDENT STATE'S RESPONSE

8. On jurisdiction and admissibility, the Respondent State prays the Court to order:

- i. That the Application has not invoked the jurisdiction of the Honourable Court under Article 3(1) and Rule 26 of the Rules of the Court.
- ii. That the Application has not met the admissibility requirements stipulated under Rules 26, 40(5) and 40(6) of the Rules of Court, Article 56(5) and 56(6) of the African Charter on Human and Peoples' Rights and Article 6(2) of the Protocol.
- iii. That the Application be dismissed in accordance to Rule 38 of the Rules of Court.
- iv. That the costs of this Application be borne by the Applicants.

9. With respect to the merits of the Application, the Respondent State prays that:

- i. The Court order and declares that the Respondent State has not violated Article 2 of the African Charter on Human and Peoples' Rights.
- ii. The Court declares that the Respondent State has not violated Article 3(2) of the African Charter on Human and Peoples' Rights.
- iii. The Court declares that the Respondent State has not violated Article 14 of the African Charter on Human and Peoples' Rights.
- iv. The Court declares that the Respondent State has not violated Article 15 of the African Charter on Human and Peoples' Rights.
- v. The Court declares that the Respondent State has not violated Article 6 of the International Covenant on Economic, Social and Cultural Rights.
- vi. The Court declares that the Respondent State has not violated Article 7 of the International Covenant on Economic, Social and Cultural Rights.

- vii. The Court order and declare the Respondent State has constitutional provisions, laws and other measures that guarantee the rights under Articles 2, 3(2), 14 and 15 of the African Charter.
- viii. The Court declares that the Applicants' claims are baseless and untenable.
- ix. The Court order that the Applicants are not entitled to any claims of money as they were paid all their benefits. It is not even clear how much money they are claiming from the Court.
- x. The Court order that the Applicants are not entitled to any reparations in respect of the alleged trauma, anguish, suffering and unprecedented delay. They are the cause of the alleged delay by filing endless.
- xi. The Court orders that there is no need for the Respondent State to report to the Executive Council the implementation of this judgment.
- xii. Any such relief(s) and or such measures as the Court may deem fit and just to grant.

10. In its submissions on reparations, the Respondent State prays for the following:

- i. A Declaration that the Respondent State has not violated the cited provisions of the African Charter and ICESCR.
- ii. The Applicant's claims for reparations be dismissed in its entirety.
- iii. That, the Respondent pray for any other relief(s) this Court may deem fit to grant.