



**PRESS RELEASE**  
**JUDGMENT SUMMARY**

**CHRIZOSTOM BENYOMA v. UNITED REPUBLIC OF TANZANIA**  
**APPLICATION NO. 001/2016**  
**JUDGMENT ON MERITS AND REPARATIONS**

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

**Date of Press Release:** 30 September 2021

**Arusha, 30 September 2021:** The African Court on Human and Peoples' Rights (the Court) delivered a judgment in the case of *Chrizostom Benyoma v. United Republic of Tanzania*.

Chrizostom Benyoma (the Applicant) is a national of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, he was serving a sentence of life imprisonment, having been convicted of the offence of rape. The Applicant alleged that the Respondent State violated his rights under Articles 3(1), 3(2), 7(1), 7(1)(c), 7(1)(d) and 8(d) of the African Charter on Human and Peoples' Rights (the Charter) by rejecting his appeal summarily; by failing to provide him with free legal representation and by failing to decide his application for review by the time he was filing his Application before the African Court. He also prayed for reparations to redress the alleged violations.

The Respondent State objected to the material jurisdiction of the Court and the admissibility of the Application. The Court first considered whether it had material jurisdiction over the matter and held that since the Application alleged violations rights provided for in the Charter to which the Respondent State is a Party, then it had material jurisdiction.

Although other aspects of its jurisdiction were not challenged by the Respondent State, the Court nevertheless examined them. In terms of its personal jurisdiction, the Court found that it had personal jurisdiction since on 29 March 2010, the Respondent State deposited the Declaration provided for under Article 34(6) of the Protocol to the Charter on the Establishment of the African Court on Human and Peoples' Rights (the Protocol) and this Declaration allows individuals to file applications against it as per Article 5(3) of the Protocol. The Court further found that the Respondent State's withdrawal of the said Declaration on 21 November 2019 did not affect this



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Application, as the withdrawal took effect on 22 November 2020, while the application was filed at the Court on 4 January 2016.

The Court also held that it had temporal jurisdiction because the alleged violations occurred after the Respondent State became a Party to the Charter and the Protocol. Furthermore, the alleged violations are continuing in nature; and lastly, that it had territorial jurisdiction, given that the facts of the matter occurred within the territory of the Respondent State which is a Party to the Protocol.

The Court then considered two objections raised by the Respondent State on the admissibility of the Application. The first objection related to the Applicant's failure to exhaust local remedies before filing the Application, as required by Article 56(5) of the Charter and Rule 50(2)(e) of the Rules of Court (the Rules). On this point, the Respondent State argued that the Applicant did not fully utilise the available local remedies, as he raised before this Court, allegations of violations of fair trial rights which he never raised before the High Court and the Court of Appeal of Tanzania. The Respondent further argued that the Basic Rights and Duties Enforcement Act provides for a procedure for enforcement of constitutional basic rights which the Applicant would have utilised to file a constitutional petition in this regard at the High Court of the Respondent State.

The Court rejected the Respondent State's contention, noting that the Applicant having seized the Court of Appeal, the highest judicial organ of the Respondent State, had exhausted local remedies. The Court noted that, alleged violations raised, form part of the bundle of rights and guarantees that were related to, or were the basis of his appeals in the national courts. Therefore, the Respondent State had the opportunity to redress the alleged violations but failed to do so. Furthermore, the Court noted that the constitutional petition within the Respondent State's judicial system is an extraordinary remedy which applicants are not required to exhaust before filing their applications before it.

The Respondent State also claimed that the Application was inadmissible because the Applicant did not file the Application within a reasonable time as required by Article 56(6) of the Charter and Rule 50(2)(f) of the Rules. In this regard, the Respondent State deemed the four (4) years and one (1) month it took for the Applicant to bring his claim to the Court as unreasonable. The Court



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dismissed this objection. This was on the grounds that, although the Applicant filed the Application four (4) years, one (1) month and twenty four (24) days after the Court of Appeal dismissed his appeal on 24 November 2011, his personal circumstances and the fact that his Application for Review of the Court of Appeal's decision was pending by the time he filed the application before this Court, justified the time he took to file the Application.

The Court was also satisfied that the record showed that all other conditions of admissibility as set out in Article 56 of the African Charter as restated in Rule 50(2) of the Rules had been complied with, and accordingly declared the Application Admissible.

The Court then considered whether the Respondent State violated the Applicant's rights under Articles 3(1), 3(2), 7(1), 7(1)(c), 7(1)(d) and 8(d) of the Charter by examining five issues.

Firstly, the Court noted that the Charter does not have a provision on Article 8(d) of the Charter, therefore this was considered as an error on the Applicant's part.

The second issue was whether the Applicant's right to a fair trial was violated by the domestic courts convicting him without being heard. The Court held that the record showed that when the facts and particulars of the charge were read out to the Applicant when he was arraigned before the District Magistrate's Court, the Applicant was asked whether he had committed the offence and understood the facts as presented, and he pleaded guilty. The Applicant was then provided the opportunity to mitigate his sentence. The Court therefore dismissed the allegation that the Applicant's right to have his cause heard as provided under Article 7(1) was violated.

Third, on the issue of the Applicant not being provided free legal assistance during his trial and appeals, the Court found that the Applicant should have been provided with free legal assistance because he was accused of a serious crime which carried a heavy penalty. The Court held, therefore, that the Applicant's rights under Article 7(1)(c) of the Charter had been violated .

Fourth, the Court considered whether the Respondent State had violated the Applicant's right to be tried within a reasonable time, for failure by the Court of Appeal to determine his Application for Review which was pending at the time the Applicant filed the Application before this Court.



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The Court noted that, the Applicant made general statements regarding this claim without providing any evidence in support. In those circumstances, the Court found no violation of the Applicants rights provided under Article 7(1)(d) of the Charter.

Finally, on the issue of whether, by summarily dismissing the Applicant's appeal, the Court of Appeal violated the Applicant's rights under Article 3(1) and (2) of the Charter, the Court found that the Applicant had not established that he was treated differently from other persons who were convicted of their own plea of guilt for the offence of rape, as he was.

The Applicant requested the Court to remedy the alleged violations by quashing his sentence and ordering his release from prison. The Court declined to make this order because it found that even if the Respondent State violated the Applicant's right to a fair trial for failing to provide him with free legal assistance, the nature of the violation in the instant case did not reveal any circumstance that signifies that the Applicant's imprisonment is a miscarriage of justice or an arbitrary decision. The Applicant also failed to elaborate on specific and compelling circumstances to justify the order for his release. The Court however, awarded the Applicant Tanzanian Shillings, Three Hundred Thousand (TZS 300,000) as fair compensation for the moral prejudice he suffered from the denial of free legal assistance during the proceedings at the domestic courts, this being in violation of Article 7(1)(c) of the Charter.

The Respondent State was ordered to pay the said amount free from tax within six (6) months of the notification of the judgment and to report to the Court on the implementation thereof every six (6) months until the Court determines that there has been full implementation thereof.

Each Party was ordered to 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: <https://www.african-court.org/cpmt/details-case/0012016>

For any other queries, please contact the Registry by email [registrar@african-court.org](mailto:registrar@african-court.org).



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