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JUDGMENT SUMMARY

YUSUPH HASSANI v. UNITED REPUBLIC OF TANZANIA
APPLICATION NO. 029/2015
RULING ON JURISDICTION AND ADMISSIBILITY

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 Ruling in the case of *Yusuph Hassani v. United Republic of Tanzania*.

Yusuph Hassani (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 prison sentence of thirty (30) years, having been convicted of the offence of armed robbery. The Applicant alleged that the Respondent State violated his rights under Article 7 of the African Charter on Human and Peoples' Rights (the Charter) by convicting him on the basis of the prosecution's evidence which he alleged was not credible; by failing to provide him with free legal representation and by delaying to determine his application for review by the time he was filing his Application. He also prayed for reparations to redress the alleged violations, particularly that he should be released from prison.

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 of 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 all of 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 23 November 2015.

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 were 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 allegation by the Applicant that he was not provided free legal representation during his trial and appeals, is an allusion to the violation of his constitutional rights. For that reason, the Respondent State argued that the Applicant was obliged to institute a constitutional petition before the High Court of the Respondent State to have his grievances addressed.

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 five (5) years, eight (8) months and thirteen (13) days it took for the Applicant to bring his claim to the Court as unreasonable. The Court upheld this objection that the Application was not filed within a



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reasonable time on the grounds that the Applicant did not provide any justification or evidence to explain why it took him five (5) years, eight (8) months and thirteen (13) days before filing his Application before the Court.

The Court, having found that the application did not satisfy the requirement of of admissibility under Article 56(6) of the Charter as restated in Rule 50 (2) (f) of the Rules, it did not rule on the Application's compliance with the admissibility requirements set out in Article 56(1)- (4), and (7) of the Charter as restated in Rules 50(2)(a)-(d),and (g) of the Rules, as these conditions are cumulative.

Therefore, the Court noted that the Application's non-compliance with Article 56(6) of the Charter as restated in Rule 50(2)(f) of the Rules rendered the application inadmissible.

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/0292015>

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.