



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

**AMINI JUMA v. UNITED REPUBLIC OF TANZANIA**  
**APPLICATION NO. 024/2016**  
**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 *Amini Juma v. United Republic of Tanzania*.

Amini Juma (the Applicant) is a national of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, he was on death row having been convicted of murder. The Applicant alleged that the Respondent State violated his rights guaranteed under Articles 4, 5, 7(1)(b), 7(1)(c) and 7(1)(d) of the African Charter on Human and Peoples' Rights (the Charter) by imposing a mandatory death sentence on him, by failing to presume him innocent, by failing to provide him with effective legal representation, by failing to try him within a reasonable time and by failing to try him by an impartial tribunal. 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 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 aspects of its jurisdiction. 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 Application, as the withdrawal took effect on 22 November 2020, while the application was received at the Court on 10 February 2016.

The Court also held that it had temporal jurisdiction because the alleged violations occurred after the Respondent State had ratified the Charter and the Protocol, and the alleged violations were continuing in



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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.

Furthermore, the Court considered four objections raised by the Respondent State to the admissibility of the Application. The first objection related to the Applicant's non-compliance with the Constitutive Act of the African Union and the Charter as required by Rule 50(2)(b) of the Rules of Court (the Rules). With respect to this objection, the Respondent State submitted that the Applicant failed to cite provisions of the Charter or principles enshrined in the Constitutive Act of the African Union. The Court held that the claims made by the Applicant sought to protect his rights in line with Article 3(h) of the objectives of the Constitutive Act of the African Union and thus was compatible with Rule 50(2)(b) of the Rules.

The Second objection by the Respondent State was that the Applicant's remark that, "the Justices of the Court of Appeal failed to inject common sense" was insulting and uncalled for. The Court decided that, the remark was intended merely to criticize the reasoning of the judges, and not to infringe their right or honour and thus was not insulting or disparaging but complied with Rule 50(2)(c) of the Rules.

Respondent State further argued that the Applicant did not fully utilize the available local remedies and thus did not comply with Article 56(5) of the Charter. 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, the alleged violations raised, formed 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.

The Respondent State also claimed that 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) and a half years it took for the Applicant to bring his claim to the Court as unreasonable. The Court dismissed this objection on the grounds that the Applicant had no representation before the national courts, was incarcerated, restricted in movements, with limited access to information. The Court noted that, these circumstances occasioned the delay in bringing the matter to the Court.

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 and Rule 50(2) of the Rules had been complied with and declared the Application admissible.

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The Court then considered whether the Respondent State violated the Applicant's rights under Articles 4, 5, 7(1)(b), 7(1)(c) and 7(1)(d) of the Charter by examining four issues.

The Court considered first whether the Applicant's right to a fair trial was violated. In this regard, the Court considered the Applicant's first allegation that he was convicted on the basis of weak evidence. In this regard, the Court held that the manner in which the evidence adduced was handled in the national courts did not disclose any manifest error or miscarriage of justice to require its intervention and thus dismissed the allegation.

Secondly, the Applicant argued that the conduct of the assessors in his trial displayed actual or perceived bias in violation of Article 7(1)(b) of the Charter. The Court held that the Applicant did not substantiate his claim and also, from the record, that, the assessors were involved in questioning both the prosecution witnesses as well as the defence witnesses in order to solicit more information. Consequently, the Respondent State did not violate the Applicant's right to be tried by an impartial tribunal.

Thirdly, the Applicant argued that he did not receive effective representation from his court-appointed advocate in the national courts as the advocate also represented his co-accused and thus there was conflict of interest. The Court held that there was nothing on record to show that the Applicant challenged the joint representation during his trial. Also, that the Applicant did not demonstrate the existence of actual conflict of interest which affected his Advocate's performance during trial. Therefore, the Respondent State did not violate the Applicant's right under Article 7(1)(c).

Lastly, the Applicant alleged that he was held in remand for approximately five (5) years from his arrest until his trial and conviction in violation of Article 7(1)(d) of the Charter. The Court held that the matter was not complex as it was completed within a week, once the trial had commenced. The Court then noted that the delay was not attributable to the Applicant as he did not file any motions of adjournment to prolong the process; lastly, the Court found that the delay was attributable to the Respondent State as it did not submit any explanation as to why it took four (4) years, seven (7) months and nine (9) days to commence the trial of the Applicant and therefore, the Respondent State was adjudged to have violated Article 7(1)(d) of the Charter.

The Applicant also alleged the violations of the right to life and the right to dignity in relation to the mandatory death sentence handed down to him and as provided for under Section 197 of the Penal Code. The Court held that the mandatory nature of the death penalty as provided for under Section 197 of the



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Penal Code, leaves the national courts with no choice but to sentence a convict to death, resulting in arbitrary deprivation of life. Therefore, Section 197 of the Penal Code violates the right to life.

As regards the right to dignity, the Court held that, having found that the mandatory imposition of the death sentence violates the right to life due to its arbitrary nature; the method of implementation of that sentence, that is, hanging, violates the dignity of the person in respect of the prohibition of torture and cruel, inhuman and degrading treatment.

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 had not decided that the Applicant's conviction was illegally imposed. The Court also rejected the material loss claimed by the Applicant, for himself and his beneficiaries, as he had failed to demonstrate the link between the violation found and the loss suffered.

The Court however, exercising judicial discretion in equity, awarded the Applicant Tanzanian Shillings Four Million (TZS 4, 000,000) for the moral prejudice he suffered as a result of violations found of his right to life, dignity and to be tried within a reasonable time.

The Respondent State is required to pay the said amount free from tax within six (6) months of the notification of the judgment and report to the Court on the implementation thereof every six (6) months until full implementation.

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/0242016>

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



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*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](http://www.african-court.org).*