



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

**MOHAMED SELEMANI MARWA v. UNITED REPUBLIC OF TANZANIA**  
**APPLICATION NO. 014/2016**  
**JUDGMENT ON MERITS AND REPARATIONS**

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

**Date of Press Release:** 2 December 2021

**Dar es Salaam, 2 December 2021:** The African Court on Human and Peoples' Rights (the Court) delivered a judgment in the case of *Mohamed Selemani Marwa v. United Republic of Tanzania*.

Mohamed Selemani Marwa (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 thirty (30) year prison sentence, having been convicted of the offence of armed robbery. The Applicant alleged that the Respondent State violated Articles 1, 2, 3, 5, 7, 19 and 26 of the Charter because the Respondent State's courts convicted him on the basis of evidence which was not proven in accordance with the standards required by law, that is, beyond reasonable doubt.

On reparations, the Applicant prayed the Court to order his acquittal and the payment of reparations to be considered and assessed by the Court.

The Respondent State objected to the material jurisdiction of the Court and the admissibility of the Application.

In its Ruling, the Court first considered whether it had material jurisdiction over the matter and held that since the Application alleged violations of rights provided for under the Charter to which the Respondent State is a Party, 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



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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 3 March 2016.

The Court also held that it had temporal jurisdiction because the alleged violations were continuing in nature since the Applicant remains convicted on the basis of what he considers an unfair process; 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.

On the admissibility of the Application, the Court considered two objections raised by the Respondent State. 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. On this point, the Respondent State argued that the provisions of the Charter alleged to have been violated are also guaranteed under the Constitution of the Respondent State, therefore, the Applicant should have first instituted a constitutional petition under the Basic Rights and Duties Enforcement Act.

The Court rejected the Respondent State's contention noting that the Applicant had exhausted local remedies, having seized the Court of Appeal, the highest judicial organ of the Respondent State. The Court further noted that the constitutional petition within the Respondent State's judicial system is an extraordinary remedy which the Applicant was not required to exhaust before seizing this Court.

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 three (3) years and six (6) months it took for the Applicant to bring his claim to this Court as unreasonable. The Court dismissed this objection on the grounds that the Applicant is incarcerated, lay, indigent and restricted in movement with limited access to information. The Court also considered that he had filed an application for review of the Court of Appeal's judgment due to which it was reasonable for him to await the outcome of that decision and which could have contributed that he did not file the Application earlier than he did. In light of these circumstances, the Court found that the Application was filed within a reasonable time.

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.

The Court then considered whether the Respondent State violated Articles 1, 2, 3, 5, 7, 19 and 26 of the Charter as alleged by the Applicant.



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The Court found that the manner in which the evidence was evaluated by the domestic courts did not reveal any manifest errors requiring this Court's intervention. Furthermore, the Court held that the Applicant had not made any specific submissions nor provided evidence that the Respondent State violated Articles 1, 2, 3, 5, 7, 19 and 27 of the Charter, and concluded that the Respondent State did not violate the Charter as alleged by the Applicant.

Having found that the Respondent State did not violate any of the Applicant's rights, the Court dismissed the Applicant's prayers for reparations and 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/0142016>

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 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).*