



JUDGMENT SUMMARY

ABDALLAH SOSPETER MABOMBA AND OTHERS V. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 017/2017

RULING ON JURISDICTION AND ADMISSIBILITY

22 SEPTEMBER 2022

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

Arusha, 22 September 2022: The African Court on Human and Peoples' Rights (the Court) delivered a Ruling in the case of *Abdallah Sospeter Mabomba and Others v. United Republic of Tanzania*.

Abdallah Sospeter Mabomba, Hussein Kyamba Nyawayaya, Daniel Ngulu and Nyigini Alex (the Applicants) are nationals of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, the Applicants were serving a term of thirty (30) years' imprisonment, at Uyui Central Prison in the Tabora region, having been convicted of armed robbery and gang rape. The Applicants alleged that the Respondent State had violated their rights under Articles 3(1), 3(2), 7(1) and 7(1)(c) of the African Charter on Human and Peoples' Rights (the Charter) by failing to properly assess the evidence relied upon to convict them. They prayed the Court to render them justice, quash their conviction and order their release in order to redress the alleged violations.

On jurisdiction, the Respondent State raised an objection to the Court's material and temporal jurisdiction. The Court held that it had material jurisdiction because the Applicant had alleged violations of his rights protected under the Charter. The Court further held that it had temporal jurisdiction because the alleged violations occurred after the Respondent State had ratified the Charter and the Protocol and had continued after the deposit of the Declaration by the Respondent State as required under Article 34(6) of the Protocol.

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. This Declaration allows individuals to file applications against the Respondent State as per Article 5(3) of the Protocol. The Court underscored 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 13 June 2017. Lastly, that it



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had territorial jurisdiction, given that the facts of the matter occurred within the territory of the Respondent State.

In terms of the admissibility of the Application, the Court, as empowered by Article 6 of the Protocol, had to determine whether the requirements of admissibility, as provided under Article 56 of the Charter and Rule 50 of the Rules of Court (the Rules), had been met. In this connection, the Court first considered two (2) objections raised by the Respondent State on non-exhaustion of local remedies and on failure to file the Application within a reasonable time.

As regards, the exhaustion of local remedies, the Court noted that, the Applicants were convicted of robbery and gang rape on 16 July 2002 by the District Court. Furthermore, they appealed against this decision to the High Court, which dismissed their appeal on 2 July 2004. Finally, they appealed to the Court of Appeal, the highest judicial organ in the Respondent State, which upheld the judgment of the High Court by its judgment of 16 March 2007. Therefore, the Court deemed that the Applicants had exhausted local remedies and fulfilled the requirement of Article 56(5) of the Charter as restated in Rule 50(2)(e) of the Rules.

With respect to whether the Application was filed within a reasonable time, the Court noted that the period to be determined as reasonable or not was the period of seven (7) years, two (2) months and fifteen (15) days. The Court has held in previous cases that, the period of five (5) years and one (1) month is reasonable owing to the circumstances of the applicants. In these cases, the Court took into consideration the fact that the applicants were imprisoned, restricted in their movements and with limited access to information; that they were lay, indigent, did not have the assistance of a lawyer in their trials at the domestic court, and that they were illiterate and were not aware of the existence of the Court.

In contrast, the Court held that, in the instant case, the Applicants did not give any reasons as to why they could not seise the Court earlier than the seven (7) years, two (2) months and fifteen (15) days it took them to do so. Furthermore, that, even though, they are incarcerated, the Applicants did not indicate how this incarceration impeded them in filing their Application earlier than they did. The Court thus held that the Application was inadmissible for having not been filed within a reasonable time in accordance with Article 56(6) of the Charter and Rule 50(2)(f) of the Rules.

The Court, having found that Rule 50(2)(f) of the Rules was not fulfilled, did not find it necessary to assess whether the Application satisfied Rule 50(2)(a), (b), (c), (d) and (g) of the Rules, as the conditions of admissibility are cumulative.



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The Court ordered that each Party should 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/0172017>

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.