


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

SUMMARY OF APPLICATION

CHARO SAIDI KIMILU AND ANOTHER (APPLICANTS)

VS

UNITED REPUBLIC OF TANZANIA (RESPONDENT STATE)

APPLICATION NO 045/2016

I. THE PARTIES

1. Charo Saidi Kimilu and Mbwana Rua Kubo (hereinafter referred to as “the applicants”) are both nationals of the United Republic of Tanzania (hereinafter referred to as “the Respondent State”). The Applicants bring this Application alleging a violation of their right to a fair trial by the Respondent State.

2. The Respondent State became party to the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter") on 21 October 1986 and to the Protocol to the African Charter on the Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") on 10 February 2006 and deposited the Declaration required under Article 34(6) of the Protocol on 29 March 2010, by which it accepted the jurisdiction of the Court to receive cases from individuals and Non-Governmental Organizations. On 21 November 2019 it deposited with African Union Commission on Human and Peoples' Rights (Hereinafter referred to as the "Commission"), an instrument of withdrawal of the said declaration. The Court has held that this withdrawal has no bearing on pending cases and new cases filed before the day on which the withdrawal took effect which was on 22 November 2020, being a period of one year after its deposit.

II. SUBJECT OF THE APPLICATION

A. Facts of the Matter

3. The Application has been filed by Charo Said Kimilu (1st Applicant) and Mbwana Rua Kubo (2nd Applicant) who are currently serving a twenty (20) years sentence at Maweni Central Prison in Tanga Region.
4. The Applicants and a third accused were charged with the offence of trafficking cannabis sativa, a narcotic drug, contrary to section 16 (1) (b) (i) of the Drugs and Prevention of Illicit Traffic in Drugs Act before the High Court of Tanga in Criminal Session No. 06 of 2017. The High Court convicted the Applicants and acquitted the third accused in a judgment delivered on 14 March 2014.
5. The Applicants' appealed to the Court of Appeal in Criminal Appeal No. 111 of 2015 but their appeal was dismissed in its entirety on the 16 September 2015.
6. The Applicants filed this Application on the 28 July 2016.

B. Alleged violations

7. The applicants allege that the Respondent State has violated their fundamental rights guaranteed in Article(s) 7(1) of the Charter.

III. PRAYERS OF THE APPLICANTS

8. The Applicants pray the court to:
 - i. Re-evaluate the whole proceedings of this case and come up with its conclusion.
 - ii. Restore justice where it was overlooked.
 - iii. To acquit the Applicants by setting aside the conviction and sentence.