



## JUDGMENT SUMMARY

### TIKE MWAMBIPILE AND EQUALITY NOW V. UNITED REPUBLIC OF TANZANIA

#### APPLICATION No. 042/2020

#### RULING ON JURISDICTION AND ADMISSIBILITY

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

**Arusha, 1 December 2022:** The African Court on Human and Peoples' Rights (the Court) delivered a Ruling in the case of *Tike Mwambipile and Equality Now v. United Republic of Tanzania*.

Tike Mwambipile is a female national of the United Republic of Tanzania (the Respondent State) and Equality Now is a Non-Governmental Organisation (NGO) with Observer Status before the African Commission on Human and Peoples' Rights (the Applicants). They challenge the Respondent State's policies that exclude pregnant and parenting girls from public schools and allege that the ban violates the rights to education and non-discrimination guaranteed in the African Charter on Human and Peoples' Rights (the Charter) and in other international human rights instruments ratified by the Respondent State.

Having found that nothing on record shows that it does not have jurisdiction, the Court held that it had material, personal, temporal and territorial jurisdiction.

On the admissibility of the Application, the Court noted that the Respondent State raised three objections. The first objection relates to the contention that similar applications were already pending before the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) and the East African Court of Justice. The second objection relates to the requirement of exhaustion of local remedies and the third concerns the question whether the Application was filed within a reasonable time.

Regarding the first objection, the Court noted that the Respondent State avers that the applicable admissibility rule in the instant matter is that of *res subjudice*. However, the Court noted from the record that the ACERWC had already adopted its decision No. 002/2022 in Communication No: 0012/Com/001/2019 in the matter between Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) against the United Republic of Tanzania, during its 39th Ordinary Session held from 21 March to 1 April 2022.



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The Court was, therefore, of the view that the issue at hand is no longer a question of *res subjudice*, but rather it had to consider whether the matter has been settled in accordance with the principles invoked in Article 56(7) of the Charter.

Concerning the issue whether the matter had already been settled, the Court considered three criteria: the identity of the parties, the similarity of the subject-matter of the applications and whether a first decision on merits exists. The Court found that these cumulative criteria have been fulfilled and, therefore, held that the admissibility requirement under Article 56(7) of the Charter had not been met.

The Court further recalled that the conditions of admissibility of an application filed before it are cumulative, such that if one condition is not fulfilled then the application becomes inadmissible. The Court, therefore, dismissed the Application without needing to examine the other objections to admissibility raised by the Respondent State and the other admissibility requirements set out under Article 56 of the Charter and Rule 50 of the Rules.

The Court ordered each Party to bear its own costs.

Justice Blaise TCHIKAYA and Justice Rafaâ BEN ACHOUR issued a joint Dissenting Opinion, while Justice Chafika BENSAOULA issued a Separate Opinion.

### **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/0422020>

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).*