



PRESS RELEASE
JUDGMENT SUMMARY

IGOLA IGUNA v. UNITED REPUBLIC OF TANZANIA
APPLICATION NO. 020/2017
JUDGMENT

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

Date of Press Release: 1 December 2022

Arusha, 1 December 2022: The African Court on Human and Peoples' Rights (the Court) delivered a judgment in the case of *Igola Iguna v. United Republic of Tanzania*.

Igola Iguna (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 at the Uyui Prison, having been convicted of murder. The Applicant alleged that the Respondent State violated his rights under Articles 2 and 7(1) of the African Charter on Human and Peoples' Rights (the Charter) by the failure of the Court of Appeal to properly assess the evidence relied upon to convict him. He sought reparations to redress these alleged violations.

The Court observed that, as per Article 3(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights ("the Protocol"), it had to, preliminarily, determine whether it had jurisdiction to hear the Application. In this regard, the Court held 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 and this Declaration allowed individuals to file applications against it as per Article 5(3) of the Protocol. The Court also noted that it had decided that the Respondent State's withdrawal of its Declaration, on 21 November 2019, did not affect Applications like the present one which had been filed before the withdrawal took effect on 22 November 2020. It had material jurisdiction because the Application raised allegations of violations of rights provided for under the Charter. Furthermore, the Court held that it had temporal jurisdiction because the alleged violations were continuous in nature; and lastly, that it had territorial jurisdiction, given that the alleged violations occurred within the territory of the Respondent State which is a Party to the Protocol. The Court thus concluded that it had jurisdiction to examine the Application.

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. Given that there was no objection from the Respondent State, the Court on its own volition assessed whether the Application was admissible. In this



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regard, it held that, the Applicant had been clearly identified by name in fulfilment of Rule 50(2)(a) of the Rules. It also 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 the Application was compatible with Rule 50(2)(b) of the Rules. Furthermore, the Court found that the language used in the Application was not disparaging or insulting to the Respondent State or its institutions in fulfilment of Rule 50(2)(c) of the Rules and also that the Application was not based exclusively on news disseminated through the mass media in fulfilment of Rule 50(2)(d) of the Rules.

With regards to exhaustion of local remedies, the Court noted that the Applicant having seized the Court of Appeal, the highest judicial organ of the Respondent State, had exhausted local remedies. The Court also found that the Application was filed within a reasonable time given that the Applicant was on death-row and thus secluded from the general population and had limited access to information. Furthermore, that the Applicant was already on death-row during the early years of the operation of the Court and thus he could not have been expected to know about the Court and its procedures. The Court was also satisfied that the Application did not raise allegations already settled before another international tribunal and thus all the conditions of admissibility as set out in Article 56 of the Charter and Rule 50(2) of the Rules had been complied with. Therefore the Court declared the Application admissible.

The Court then considered whether the Respondent State violated the Applicant's rights under Articles 2 and 7(1) of the Charter.

The Court first considered whether the manner of the evaluation of evidence in the Court of Appeal was proper and found that the national courts had followed the procedures according to its laws in assessing the credibility of the said evidence and thus the procedure undertaken by the Court of Appeal did not disclose any error requiring the intervention of the Court. Therefore, the Court dismissed the allegation.

As regards the allegation that the Court of Appeal discriminated against the Applicant through the procedure in which it found the Applicant guilty, the Court found that the Applicant had not proved the claim. The Court therefore dismissed this claim.

The Court having found that there were no violations, dismissed the Applicants' prayers for reparations. Each Party was also ordered to bear its own costs.



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Justice Blaise Tchikaya issued a Separate Opinion in which he discussed the need for the Respondent State to gradually develop its laws towards the abolition of the death penalty in line with developing International practice.

Justices Ben Kioko, Tujilane R. Chizumila and Dennis D. Adjei issued a joint dissenting opinion stating that the Applicant had taken too long to seize the Court and therefore the Application should have been found inadmissible.

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/0202017>

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.