



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

**LÉON MUGESERA v. RÉPUBLIQUE DU RWANDA**

**APPLICATION No. 012/2017**

**JUDGMENT ON MERITS AND REPARATIONS**

**27 NOVEMBER 2020**

**DECISION OF THE AFRICAN COURT FOR HUMAN AND PEOPLES'S RIGHTS**

**Press Release: 27 November 2020**

**Arusha, 27 November 2020:** The African Court delivered judgment in the case of Léon Mugesera v. Republic of Rwanda. Léon Mugesera (the Applicant) is a Rwandan citizen who was extradited by the Government of Canada to the Republic of Rwanda (hereinafter "the Respondent State") on 24 January 2012.

The Applicant filed his Application with the Court Registry on 28 February 2017. At the date of filing, the Applicant was in police custody awaiting judicial proceedings against him for the crime of genocide, in connection with the genocide of Tutsis perpetrated in 1994. He brought a complaint against the Respondent State before the African Court on Human and Peoples' Rights (the Court).

The Applicant contended that during the judicial proceedings brought against him between 2012 and 2016 for the crime of genocide, the High Court Chamber for International Crimes and the Supreme Court of Rwanda committed unlawful acts in terms of the procedure, prison conditions and manner in which he was being treated by the prison authorities. The Applicant claimed that he brought the matter before the Court after his failed attempts to obtain redress for these unlawful acts and better prison conditions from the Supreme Court and other relevant administrative authorities of the Respondent State.

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In his application, the Applicant alleged violation of a number of his rights, namely: (i) the right to defence; (ii) the right to legal assistance; (iv) the right to be heard by an independent and impartial tribunal; (v) the right not to be subjected to cruel, inhuman and degrading treatment; (vi) the right to physical and mental integrity; and (vii) the right to family and information. For all these violations, he requests the Court to grant him fair compensation pursuant to Article 27(1) of the Protocol Establishing the African Court on Human and Peoples' Rights (the Protocol).

On 12 May 2017, the Registry received a letter from the Respondent State reminding the Court of the withdrawal of the declaration under Article 34(6) of the Protocol and stating that it would not participate in any proceedings before the Court. The Respondent State therefore did not file a Response to the Application and other submissions.

As the Respondent State did not participate in the proceedings, the judgment was rendered in absentia. In order to do so, the Court was required to satisfy itself that the conditions laid down in Rule 63 of the applicable Rules had been met, including (i) default by one of the parties, (ii) the request made by the other party or of its own motion, and (iii) service of the Application and documents on the case to the defaulting party.

Under Rule 49(1) of its Rules, the Court must always ascertain its jurisdiction even if, in the case at hand, the Respondent State did not participate in the proceedings. Thus, after examining the Applicant's submissions, the Court found that there was nothing in the record to indicate that it did not have jurisdiction in the present case. The Court concluded that it had subject-matter, personal, temporal and territorial jurisdiction, noting in particular that it had personal jurisdiction because the Respondent State was a party to the Protocol and had deposited the Declaration under Article 36(4) of the Protocol allowing the Applicant to resort directly to the Court. Furthermore, the Application was filed on 28 February 2017, i.e. before 1 March 2017, the date on which the withdrawal of the said Declaration took effect.

Regarding the admissibility of the Application, the Court concluded that the Application met all the conditions of admissibility under Article 56 of the Charter and which were essentially echoed by Rule 50 of the Rules of Court.



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In its examination of the merits of the case and in respect of the Applicant's allegation that the Applicant's witnesses did not appear to defend him, the Court found that the Respondent State did not violate the Applicant's right to defence under Article 7(1)(c) of the Charter, nor his right to legal assistance under section 7(1)(c) of the Charter, read in conjunction with article 14(3) of the ICCPR and the letter of undertaking by the Respondent State to the Government of Canada; nor the right to be heard by an independent and impartial tribunal under sections 7(1)(d) and 26 of the Charter.

On the other hand, the Court found that the Respondent State violated Article 5 of the Charter by subjecting the Applicant to cruel, inhuman and degrading treatment. The Court further held that the Respondent State violated the Applicant's right to life under Article 4 of the Charter, as well as his right to family life under Article 18(1) of the Charter, in relation to contacts with members of his family.

As a result of this violation, the Court ordered the Rwandan State to pay the Applicant ten million (10,000,000) Rwandan francs in legal fees for the proceedings before the domestic courts; ten million (10,000,000) Rwandan francs to the Applicant as non-material damage; and five million (5,000,000) Rwandan francs to each of the Applicant's family members, namely: Mrs. Gemma Uwamariya, wife of the Applicant, Yves Musi, his son, and Carmen Nono, his daughter.

The Court ordered the Respondent State to pay the Applicant this money, free of tax, within six months from the date of notification of the present judgment, failing which it shall also pay default interest calculated on the basis of the applicable rate set by the Central Bank of the Republic of Rwanda, throughout the period of delayed payment and until the sums due have been paid in full.

With regard to non-pecuniary reparations, the Court dismissed the Applicant's request to order the annulment of his sentence and his release, on the ground that the subject of his Application was the conditions of detention and not its lawfulness.

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The Applicant's request to order the Respondent State to enter into negotiations with the Government of Canada to allow the Applicant to serve the remainder of his sentence in Canada was also dismissed by the Court on the ground that this matter touches on the sovereignty of the States concerned.

Lastly, the Court also dismissed the Applicant's request to impose sanctions on the Respondent State in case of failure to execute the Court's orders, noting that this request fell within the jurisdiction of the political organs of the African Union.

The Court however ordered the Respondent State to appoint an independent medical doctor to assess the Applicant's health condition and determine the measures required to assist him.

Lastly, the Court ordered the Respondent State to report within six months from the date of notification of this Judgment, the measures taken to implement it, and every six months thereafter until the Court considers that the Judgment has been fully executed.

In accordance with Article 28(7) of the Protocol and Rule 70 of the Rules of Court, Judge Rafaâ BEN ACHOUR issued a Partial Dissenting Opinion on the allegation pertaining to the violation of the right to be heard by an independent and impartial tribunal.

Further information about this case, including the full text of the decision of the African Court can be found on the website at: <https://www.african-court.org/cpmt/details-case/0122017>

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)*