

JUDGMENT SUMMARY

SHIJA JUMA v. UNITED REPUBLIC OF TANZANIA
APPLICATION NO. 028/2016
JUDGMENT ON MERITS AND REPARATIONS

13 JUNE 2023

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

Arusha, 13 June 2023: The African Court on Human and Peoples' Rights (the Court) delivered a judgment in the case of *Shija Juma v. United Republic of Tanzania*.

Shija Juma (the Applicant) is a national of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, he was incarcerated at Butimba Central Prison in the Mwanza region, having been convicted of rape and sentenced to life imprisonment. The Applicant alleged that the Respondent State violated his rights under Article 7(1) of the African Charter on Human and Peoples' Rights (the Charter) by denying him the right to be heard and by convicting him on the basis of unreliable evidence. He sought reparations to redress these alleged violations.

The Court observed that, as per Article 3 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 Respondent State raised an objection to its material jurisdiction. The Court held that it had material jurisdiction because the Applicant had alleged violations of his rights protected under the Charter.

Although other aspects of its jurisdiction were not challenged by the Respondent State, the Court nevertheless examined them. In this regard, 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 7 June 2016. The Court also held that it had temporal jurisdiction as the alleged violations occurred after the Respondent State became a party to the Charter, Protocol and had deposited the Declaration required under Article 34(6) of the Protocol. Lastly, it also

JUDGMENT SUMMARY

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

Under Article 6 of the Protocol, the Court is required 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), have been met. In this regard, the Court first considered the objection raised by the Respondent State on non-exhaustion of local remedies. As regards, the exhaustion of local remedies, the Court noted that, the Applicant was convicted of rape on 22 July 2010 by the District Court. He appealed to the High Court, which dismissed the appeal on 29 October 2014. He further appealed to the Court of Appeal, the highest judicial organ in the Respondent State, which dismissed the appeal and upheld the judgment of the High Court by its judgment of 19 February 2016. Therefore, the Court deemed that the Applicant had exhausted local remedies and fulfilled the requirement of Rule 50(2)(e) of the Rules.

Although other conditions of admissibility were not challenged by the Respondent State, the Court was obligated by Article 6 of the Protocol to ensure that they have been fulfilled. In this 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 mass media in fulfilment of Rule 50(2)(d) of the Rules. The Application which was filed two (2) months and twenty-one (21) days after exhaustion of local remedies was deemed to have been filed within a reasonable time. 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. Resultantly, the Court declared the Application admissible.

On the merits of the case, the Court considered whether the Respondent State violated the Applicant's rights under Article 7(1) of the Charter, when it allegedly denied the Applicant the right to be heard. The Court established that the Applicant had absconded bail and was therefore convicted *in absentia*. However, upon arrest, he was given the chance to explain his non-appearance during the hearings but he failed to convince the magistrate of his reasons. Therefore, the Court found that the national courts complied with fair trial standards and dismissed the allegation.



JUDGMENT SUMMARY

Regarding the allegation that the Applicant was convicted on the basis of unreliable evidence, the Court found that Applicant was convicted on the basis of the evidence of prosecution witnesses which had not been refuted. The Court therefore held that the procedure leading to the Applicant's conviction did not disclose any manifest error or miscarriage of justice requiring its intervention. Consequently the Applicant's allegation was dismissed.

The Court, having found that there were no violations of the Applicant's rights, held that the Applicant's prayers for reparations were not justified.

Each Party was ordered to 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/0282016>

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.