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The Court composed of: Blaise TCHIKAYA, Vice President; Ben KIOKO, Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI – Judges; and Robert ENO, Registrar.

In accordance with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") and Rule 9(2) of the Rules of Court (hereinafter referred to as "the Rules"), Justice Imani D. ABOUD, President of the Court and a national of Tanzania, did not hear the Application.

In the matter of

Shija JUMA

Self-represented

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

i. Dr Boniphace Nalija LUHENDE, Solicitor General, Office of the Solicitor General;
ii. Ms Sarah Duncan MWAIPOPO, Deputy Solicitor General, Office of the Solicitor General;
iii. Ms Nkasori SARAKIKYA, Director of Human Rights, Ministry of Constitution and Legal Affairs; and
iv. Mr Hangi M. CHANG'A, Assistant Director, Constitution, Human Rights and Election petitions; Office of the Solicitor General.

After deliberation,
Renders this Judgment:

I. THE PARTIES

1. Shija Juma (hereinafter referred “the, is a national of Tanzania, who at the time of filing the Application, was incarcerated at Butimba Central Prison in the Mwanza region, having been convicted of the “offence of rape” and sentenced to life imprisonment. He challenges the proceedings in the national courts which led to his conviction and sentence.

2. The Application is filed against the United Republic of Tanzania (hereinafter referred to as “the Respondent State”), party to the African Charter on Human and Peoples’ Rights (hereinafter ref Charter”) on 21 October 1986 and to the Furthermore, the Respondent State, on 29 March 2010, deposited the Declaration prescribed under Article 34(6) of the Protocol (hereinafter referred to as “the Declaration”), thro of the Court to receive applications from individuals and Non-Governmental Organisations. On 21 November 2019, the Respondent State deposited with the Chairperson of the African Union Commission, an instrument withdrawing its Declaration. The Court has held that this withdrawal has no bearing on pending and new cases filed before the withdrawal came into effect, that is, one (1) year after its deposit, which is on 22 November 2020.[1]

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. It emerges from the record that on 13 November 2009, the Applicant allegedly “raped” a three (3) year old girl who he had purported to escort home from the farm where she had been keeping her mother company. He was subsequently arrested and held at the Village Executive Officer’s premises, from which he escaped. He was later re-arrested and arraigned

[1] *Andrew Ambrose Cheusi v. United Republic of Tanzania* (judgment) (26 June 2020) 4 AfCLR 219, §§ 37-39.

at the District Court of Chato on 23 November 2009 where he was granted bail. On 25 January 2010, the next hearing date, the Applicant failed to appear before the District Court leading to the adjournment of the case and the issuance of an arrest warrant. On 13 April 2010, the prosecutor requested the District Court to proceed with the hearing in the Applicant's absence as efforts to trace him had proved futile. The prosecutor's request was granted and on 22 July 2010, the District Court convicted the Applicant *in absentia* and sentenced him to life imprisonment.

4. On 29 June 2012, the Applicant was arrested by the police and presented before the District Court. He explained the reasons for his non-appearance during the previous hearings but the magistrate was unconvinced with the explanation and thus maintained his conviction and sentence.

5. On 17 July 2012, the Applicant appealed against his conviction and sentence at the High Court of Tanzania sitting at Bukoba, which dismissed the appeal through a judgment on 29 October 2014. He further appealed to the Court of Appeal on 10 November 2014, but his appeal was dismissed for lack of merit on 19 February 2016.

B. Alleged violations

6. The Applicant alleges the violation of his right to a fair trial and right to defence, in that:

   i. He was denied the right to be heard; and
   ii. His conviction was based on unreliable evidence.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

7. The Application was filed on 10 May 2016 and served on the Respondent State on 7 June 2016.

8. The Parties filed the other pleadings on the merits and reparations of the Application having benefited from several extensions of time.

9. Pleadings were closed on 9 February 2022 and the Parties were notified thereof.

IV. PRAYERS OF THE PARTIES

10. The Applicant prays the Court to:

    i. Find there has been a violation of human or people's rights; and
    ii. Order the remedy for the violation including setting the applicant free from the custody under Article 27 of the Protocol.

11. With respect to jurisdiction and admissibility, the Respondent State prays the following:

    i. That the Honourable Court is not vested with jurisdiction to adjudicate over the matter;
    ii. That the Application has not met the admissibility requirements stipulated under Rule 40(5) of the Rules of Court or Article 56 and Article 6(2) of the Protocol;
    iii. That the Application be dismissed in accordance with Rule 38 of the Rules of Court; and
    iv. That the costs of this Application be borne by the Applicant.

12. With respect to the merits of the Application, the Respondent State prays the Court to find:

i. That the Government of the United Republic of Tanzania did not violate the rights of the Applicant provided under Article 2 of the African Charter on Human and Peoples' Rights;

ii. That the Government of the United Republic of Tanzania did not violate the rights of the Applicant provided under Article 3 of the African Charter on Human and Peoples' Rights;

iii. That the Government of the United Republic of Tanzania did not violate the rights of the Applicant provided under Article 7(1) of the African Charter on Human and Peoples' Rights;

iv. That the conviction was lawful;

v. That the Appeals before the High Court and Court of Appeal were proper and lawful;

vi. That the Applicant continue to serve his sentence;

vii. That the Application be dismissed for lack of merit;

viii. That the Applicant's prayers be duly dismissed; and

ix. That the costs of this Application be borne by the Applicant.

V. JURISDICTION

13. The Court notes that Article 3 of the Protocol provides as follows:

> 1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned.
> 2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

14. The Court underscores the provision of Rule 49(1) of the Rules that, "[t]he Court shall conduct preliminarily examination of its jurisdiction…in accordance with the Charter, the Protocol and these Rules."

15. On the basis of the above-cited provisions, the Court must conduct an assessment of its jurisdiction and dispose of objections thereto, if any.

16. The Respondent State raises an objection to the material jurisdiction of the Court. The Court will therefore consider the said objection before examining other conditions of admissibility if necessary.

A. Objection to the material jurisdiction of the Court

17. The Respondent State argues that the Court does not have jurisdiction to hear this Application as it raises issues of law and fact, which have been determined with finality by its Court of Appeal. The Respondent State avers that, through this Application, the Court is being called upon to act as an appellate court.

18. Relying on Rule 26 of the Rules[2] and the Ruling in *Ernest Francis Mtingwi v. Malawi*, the Respondent State also contends that this Court lacks jurisdiction to quash the conviction, set aside sentences and order the release of the Applicant from prison as the decision to convict and sentence the Applicant was affirmed by its highest court.

19. On his part, citing the jurisprudence of the Court in *Alex Thomas v. Tanzania*, the Applicant asserts that the Court has jurisdiction to determine this Application as it alleges violations of his rights protected by the Charter and other human rights instruments ratified by the Respondent State.

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20. The Court recalls, as it has consistently held in accordance with Article 3(1) of the Protocol that, it has jurisdiction to consider any Application filed before it provided that the latter alleges the violation of rights guaranteed in the Charter, the Protocol or any other human rights instruments ratified by the Respondent State.[3]

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[2] Rules of Court, 2 June 2010.

[3] *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, §§ 45; *Kennedy Owino Onyachi and Another v. United Republic of Tanzania* (merits) (28 September 2017), 2 AfCLR 65, § 34-36; *Jibu Amir alias Mussa and Another v. United Republic of Tanzania* (merits and reparations) (28 November 2019) 3 AfCLR 629, § 18; *Abdallah Sospeter Mabomba v. United Republic*

21. In the instant case, the Applicant alleges the violation of the right to defence and the right to a fair trial protected under the Charter to which the Respondent State is a party.

22. The Court further reiterates that, while it does not exercise appellate jurisdiction with respect to decisions of domestic courts, it is empowered by the provisions of Article 3(1) of the Protocol to ensure that domestic proceedings are in compliance with international standards set out in the Charter and any other human rights instruments ratified by the Respondent State.[4]

23. From the foregoing, the Court dismisses the objection to jurisdiction and finds that it has material jurisdiction to hear the Application.

B. Other aspects of jurisdiction

24. The Court notes that there is no contention regarding its personal, temporal or territorial jurisdiction. Even so, it must satisfy itself that these aspects have been met.

25. The Court notes, with respect to its personal jurisdiction that, as earlier stated in paragraph 2 of this Judgment, the Respondent State is a party to the Protocol and on 29 March 2010, it deposited with the African Union Commission, the Declaration made under Article 34(6) of the Protocol. Subsequently, on 21 November 2019, it deposited an instrument withdrawing its Declaration.

26. The Court recalls its jurisprudence that, the withdrawal of a Declaration does not apply retroactively and only takes effect one (1) year after the date

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of Tanzania, ACtHPR*,* Application No. 017/2017, Judgment of 22 September 2022 (jurisdiction and admissibility), §§ 21.

[4] *Kenedy Ivan v. United Republic of Tanzania* (merits) (March 2019) 3 AfCLR 48, § 26; *Armand Guehi v. United Republic of Tanzania* (merits and reparations) (7 December 2018) 2 AfCLR 477, § 33; *Nguza Viking (Babu Seya) and Johnson Nguza (Papi Kocha) v. United Republic of Tanzania* (merits) (23 March 2018) 2 AfCLR 287, § 35.

of deposit of the notice of such withdrawal, in this case, on 22 November 2020. This Application having been filed before the Respondent State deposited its notice of withdrawal, is thus not affected by it. Consequently, the Court finds that it has personal jurisdiction.

27. With regard to temporal jurisdiction, the Court notes that 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 and therefore finds that its temporal jurisdiction has been satisfied.

28. The Court also notes that it has territorial jurisdiction given that the alleged violations occurred in the Respondent State's territory.

29. In light of the foregoing, the Court holds that it has jurisdiction to hear this Application.

VI. ADMISSIBILITY

30. Article 6(2) of the Protocol provides: "the Court shall rule o
of cases taking into account the provis

31. Pursuant to Rule 50(1) of the Rules, "[t]h
admissibility of an Application filed before it in accordance with Article 56 of
the Charter, Article 6(2) of the Proto

32. Rule 50(2) of the Rules, which in substance restates the provisions of Article 56 of the Charter, provides as follows:

> Applications filed before the Court shall comply with all of the following conditions:
>
> a. Indicate their authors even if the latter request anonymity;

b. Are compatible with the Constitutive Act of the African Union and with the Charter;

c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;

d. Are not based exclusively on news disseminated through the mass media;

e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;

f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter; and

g. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Constitutive Act of the African Union, or the provisions of the Charter.

33. The Respondent State raises an objection to the admissibility of the Application in relation to non-exhaustion of local remedies. The Court will therefore consider the said objection before examining other conditions of admissibility if necessary.

A. Objection based on non-exhaustion of local remedies

34. Citing the decision of the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Co in *Southern African Human rights NGO Network and Others v. Tanzania*, the Respondent State submits that the exhaustion of local remedies is an essential principle in international law and that the principl legal rem the domestic" courts before seizing the international body like the Court.

35. The Respondent State also contends that, as per the Commission decision in *Article 19 v. Eritrea*, the onus is on the Applicant to demonstrate that he took all the steps necessary to exhaust domestic remedies and not merely cast aspersions on the effectiveness of those remedies.

36. In this regard, the Respondent State argues that there were remedies available to the Applicant which he should have exhausted but did not. The Respondent State contends that it enacted the Basic Rights and Duties Enforcement Act, to provide the procedure for the enforcement of constitutional and basic rights as set out in Section 4 thereof.[5] It argues that the Applicant should have filed a petition to the High Court alleging the violations of his rights. It adds that the Applicant also had the option of filing a petition for review of the Court of Appeal judgment, if he was not satisfied with the same.

37. The Applicant avers that he exhausted all local remedies as he filed appeals in the national courts up to the apex court, which is the Court of Appeal.

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38. The Court notes pursuant to Article 56(5) of the Charter, whose provisions are restated in Rule 50(2)(e) of the Rules, that, any application filed before it has to fulfil the requirement of exhaustion of local remedies. The rule of exhaustion of local remedies aims at providing states the opportunity to resolve cases of alleged human rights violations within their jurisdiction before an international human rights body is called upon to determine the state's responsibility for the same.[6]

[5] "If anybody alleges that any of the provisions of Sec to 29 of the Constitution has been, is being or is likely to be contravened in relation to him, he may, without prejudice to any other action with respect to the same matter that is lawfully available, apply

[6] *African Commission on Human and Peoples' Rights v. Republi* (merits) (26 May 2017), 2 AfCLR 9, §§ 93-94.

39. This Court has also stated in a number of cases involving the Respondent State that the remedies of filing a constitutional petition in the High Court and use of the review procedure in its system, are extraordinary remedies that an Applicant is not required to exhaust prior to seizing this Court.[7]

40. In the instant case, the Court notes from the record that the Applicant having been convicted at the District Court of Chato filed an appeal against his conviction and sentence to the High Court, which dismissed his appeal on 29 October 2014. He then appealed to the Court of Appeal of Tanzania, the highest judicial organ of the Respondent State, which on 19 February 2016, upheld the judgment of the High Court. The Court further notes that the claims raised by the Applicant herein were also raised in substance in the national courts, given that he had also alleged that he was not accorded the right to be heard and he challenged the procedure leading to his conviction. The Respondent State thus had the opportunity to redress the alleged violations. Consequently, the Applicant exhausted all the available domestic remedies.

41. For this reason, the Court dismisses the objection relating to the non-exhaustion of local remedies.

B. Other conditions of admissibility

42. The Court notes that there is no contention regarding the conditions set out in Rule 50(2)(a), (b), (c), (d), (f) and (g) of the Rules. Even so, it must satisfy itself that these conditions have been met.

43. From the record, the Court notes that, the Applicant has been clearly identified by name in fulfilment of Rule 50(2)(a) of the Rules.

[7] See *Thomas v. Tanzania* (merits), *supra*, § 65; *Mohamed Abubakari v. United Republic of Tanzania* (merits) (3 June 2016) 1 AfCLR 599, §§ 66-70; *Christopher Jonas v. United Republic of Tanzania* (merits) (28 September 2017) 2 AfCLR 101, § 44.

44. The Court notes that the claims made by the Applicant seek to protect his rights guaranteed under the Charter. It further notes that one of the objectives of the Constitutive Act of the African Union, as stated in Article 3(h) thereof, is the promotion and protection of human and peoples' rights. Furthermore, nothing on file indicates that the Application is incompatible with the Constitutive Act of the African Union. Therefore, the Court holds that the requirement of Rule 50(2)(b) of the Rules is met.

45. The language used in the Application is not disparaging or insulting to the Respondent State and its institutions or to the Organisation of the African Unity in fulfilment of Rule 50(2)(c) of the Rules.

46. The Application is not based exclusively on news disseminated through mass media as it is founded on record of the proceedings of the domestic courts in fulfilment with Rule 50(2)(d) of the Rules.

47. The Court notes that the Application was filed on 10 May 2016, that is, two (2) months and twenty-one (21) days after the Court of Appeal rendered its decision on 19 February 2016. The Court considers this period of two (2) months and twenty-one (21) days within which it was seized after exhaustion of local remedies to be reasonable. Consequently, the Court holds that the Application was filed within a reasonable time in accordance with Rule 50(2)(f) of the Rules.

48. Furthermore, the Application does not concern a case which has already been settled by the Parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union in accordance with Rule 50(2)(g) of the Rules.

49. The Court, therefore, finds that all the admissibility conditions have been fulfilled and that the Application is admissible.

VII. MERITS

50. The Applicant alleges the violations of the Charter in relation to the following issues, that:

    i. He was denied the right to be heard; and
    ii. His conviction was based on unreliable evidence.

A. Allegation based on the denial of the right to be heard

51. The Applicant alleges that the District Court of Chato convicted him of rape and sentenced him to life imprisonment without giving him a chance to defend himself.

52. He further submits that the national courts did not make any effort to trace him after he absconded bail thereby denying him the chance to put up a defence. He thus claims that the Respondent State violated his right to be heard.

53. The Respondent State denies the allegations of the Applicant and puts him to strict proof. It argues that the Court of Appeal considered the Applicant's arguments on appeal and dismissed them. Furthermore, that in the District Court, the trial was adjourned six (6) times to allow the prosecutors to try and trace the Applicant and his sureties, but their efforts proved futile.

54. The Respondent State buttresses its argument with Section 226(1)[8] of the Criminal Procedure Act (2002), which provides that if a trial is adjourned and the accused does not appear in the subsequent date of hearing, the court shall proceed with the trial as though the accused were present.

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[8] Section 226(1) of the Criminal Procedure Act - " if at the time or place to whi hearing is adjourned, the accused person does not appear before the court in which the order of adjournment was made, it shall be lawful for the court to proceed with the hearing or further hearing as if the accused were present; and if the complainant does not appear, the court may dismiss the charge and acquit the accused with or without costs as the c

Therefore, the Respondent State argues that the national courts followed due process.

55. According to the Respondent State, two (2) years after the conviction and sentence of the Applicant *in absentia*, the Applicant was arrested and brought before the trial judge in order for him to explain himself. The Respondent State contends that the Applicant did not adduce convincing reasons regarding his absence to allow the trial judge to reopen the case in accordance with Section 226(2) of the Criminal Procedure Act.[9]

56. Consequently, the Respondent State avers that the Applicant's right to a fair trial was respected and thus his claims should be dismissed for lack of merit.

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57. Article 7(1)(c) of the Charter provides: "[e]ve
to have his cause heard. This comprises: [...] c) ... T"he righ

58. The Court reiterates that the right to have one's cause heard requires that an applicant be entitled to take part in all proceedings, and to adduce his or her arguments and evidence in accordance with the adversarial principle. However, the individual has the right to choose whether or not to take part in the proceedings, provided this waiver is unequivocally established.[10]

59. In the instant case, the record before this Court shows that the Applicant absconded bail before the end of the prosecution's case and his trial was adjourned six (6) times as the Respondent State made efforts to trace him. Having failed in its search for the Applicant, the prosecutor moved the court to continue with the trial in the Applicant's absence according to Section 226(1) of the Criminal Procedure Act (2002).[11] This motion was granted and

[9] Section 226(2) of the Criminal Procedure Act " if the court convicts the accus
it may set aside the conviction upon being satisfied that his absence was from causes over which he
had no control and that he had a probable defence on
[10] *Anaclet Paulo v. United Republic of Tanzania* (merits) (21 September 2018) 2 AfCLR 446, § 81.
[11] *Supra*, note 8.

the prosecution subsequently proved its case beyond a reasonable doubt. The Applicant was thus convicted and sentenced *in absentia* but was then offered an opportunity to explain his absence during the subsequent hearings, when he was arrested two (2) years after his sentencing, in accordance with section 226(2) of the Criminal Procedure Act (2002).[12] Nevertheless, he failed to convince the trial judge to vacate the conviction and reopen his case, thus, his conviction was upheld.

60. Therefore, the trial court and the appellate courts complied with fair trial standards as required by the Charter.

61. Consequently, the Court finds that the conduct of the Applicant’s trial does not disclose any manifest error or miscarriage of justice to the Applicant. The Court therefore dismisses this allegation.

B. Allegation based on the evidence relied upon to convict the Applicant

62. The Applicant argues that he was convicted on the basis of hearsay evidence as the victim of the offence did not testify. He argues that the evidence adduced by Prosecution Witness 1 (hereinafter referred to as “PW1”) was not corroborated. He also challenges the *voir dire* proceedings, arguing that it did not follow the procedure as prescribed by law.

63. The Respondent State contends that PW1’s testimony was not based on hearsay rather, it was found to be credible by the national courts as it provided a concise account of what had transpired.

64. With regards to the *voir dire*, the Respondent State submits that the magistrate duly followed the procedures by recording the questions and answers of the *voir dire* examination and findings. Furthermore, that the victim was disqualified from testifying at the *voir dire* and therefore the trial

[12] *Supra*, note 9.

court did not rely on her testimony. The Respondent State therefore argues that this allegation has no merit.

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65. Article 7(1) of the Charter provides that “(e)very individual s right to have his cause heard …”.

66. This Court has in the past noted “…that a fair trial requires that the imposition of a sentence in a criminal offence, and in particular a heavy prison sentence, should be based on strong and credible evidence. That is the purport of the right to the presumption of innocence also enshrined in Article 7 of the Charter.”[13]

67. In the instant case, the Applicant challenges the evidence adduced and also the conduct of the *voir dire* proceedings. The record shows that the national courts considered PW1’s testimony, who was the mother of the victim to be credible. The national courts observed that PW1 had noticed that her daughter was in pain and was walking with difficulty and that she also saw “some sperms all over her legs”’s testimony was corroborated by Prosecution Witness 4’s testimony, the medical doctor who examined the victim after the sexual offence, and who confirmed that the act of “rape” had occurred.

68. Regarding the *voir dire*,[14] the record shows that the magistrate properly conducted the procedure to determine whether the victim had the capacity to testify according to Section 127 of the Evidence Act of 1967 (revised in

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[13] *Abubakari v. Tanzania* (merits), *supra*, § 174; *Diocles Williams v. United Republic of Tanzania* (merits and reparations) (21 September 2018) 2 AfCLR 426, § 72. *Majid Goa v. United Republic of Tanzania* (merits and reparations) (2019) 3 AfCLR 498, § 72.

[14] This is a procedure conducted by a court where it assesses whether a child of tender years is capable of comprehending the nature and obligation an oath.

2022)[15] and found that she lacked that capacity. The national courts therefore complied with the standards of due process.

69. In light of the foregoing, the Court finds that the procedure leading to the Applicant's conviction does not disclose any manifest error or miscarriage of justice. The Court therefore dismisses this allegation.

VIII. REPARATIONS

70. The Applicant prays the Court to grant him reparations for the violations he suffered including the ordering of his release.

71. The Respondent State prays the Court to dismiss the Applicant's prayer for reparations.

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72. Article 27(1) of the Protocol provides that:

> If the Court finds that there has been violation of a human or peoples' rights, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.

73. In the instant case, given that no violation has been found, the consideration of the prayer for reparation is no longer warranted. The Court, therefore, dismisses the Applicant's prayer for reparations.

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[15] Section 127(1) of the Evidence Act: “Every person s considers that he is incapable of understanding the questions put to him or of giving rational answers to those questions by reason of tender age, extreme old age, disease (whether of body or mind) or any other similar cause.” Section 127(2) of the Evidence Act: “Where in any criminal ca of tender age called as a witness does not, in the opinion of the court, understand the nature of an oath, his evidence may be received though not given upon oath or affirmation, if in the opinion of the court, which opinion shall be recorded in the proceedings, he is possessed of sufficient intelligence to justify the reception of his evidence, and understands the du

IX. COSTS

74. The Respondent State prays the Court to order the Applicant to bear the costs of the Application. The Applicant prays the Court to reject the Respondent State's prayer on costs.

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75. The Court notes that Rule 32(2) of its Rules provides tha
decided by the Court, each party shall bear its own costs, if any."

76. The Court finds no reason to depart from this provision. Consequently, it rules that each party shall bear its own costs.

X. OPERATIVE PART

77. For these reasons,

THE COURT,

Unanimously,

On jurisdiction

i. *Dismisses* the objection to its material jurisdiction;
ii. *Declares* that it has jurisdiction;

On admissibility

iii. *Dismisses* the objection to the admissibility of the Application;
iv. *Declares* the Application admissible;