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**JUDGMENT SUMMARY**

**MAULIDI SWEDI V. UNITED REPUBLIC OF TANZANIA**

**APPLICATION NO. 026/2017**

**RULING ON JURISDICTION AND ADMISSIBILITY**

**7 NOVEMBER 2023**

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

**Algiers, 7 November 2023:** The African Court on Human and Peoples' Rights (the Court) delivered a ruling in the case of *Maulidi Swedi v. United Republic of Tanzania*.

Maulidi Swedi (the Applicant) is a national of the United Republic of Tanzania (the Respondent State), who, at the time of filing the Application, was serving a thirty (30) year prison sentence having been tried, convicted and sentenced for the offence of armed robbery. He alleged violation of his rights during the proceedings before national courts, notably his rights to non-discrimination, to equality before the law, to equal protection of the law and to a fair trial

On reparations, the Applicant prayed the Court to restore justice where it was overlooked, quash both the conviction and the sentence imposed upon him and order his release from prison. He further prayed the Court to grant any other orders that may be appropriate in these circumstances.

The Respondent State objected to the jurisdiction of the Court as well as to the admissibility of the Application.

Concerning the Court's jurisdiction, the Respondent State's objection to the Court's material jurisdiction was two pronged: it questioned the Court's power to sit as an appellate court, as well as the court's jurisdiction to grant an order for the Applicant's release.

Firstly, as regards the contention that the Court would be exercising appellate jurisdiction by examining certain claims which were already determined by the Respondent State's domestic courts, the Court reiterated its position that it does not exercise appellate jurisdiction with respect to claims already examined by national courts. At the same time, the Court noted however, that even though it is not an appellate court vis-à-vis domestic courts, it retains the power to assess the propriety of domestic

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proceedings against standards set out in international human rights instruments ratified by the State concerned. In conducting the aforementioned task, the Court does not become an appellate court. The Court, therefore, dismissed the Respondent State's objection and held that it has material jurisdiction.

Secondly, concerning the claim that the Court does not have jurisdiction to grant an order for release, the Court noted that based on Article 27(1) of the Protocol it has jurisdiction to grant different types of reparations, including the release from prison, provided that the alleged violation has been established. For this reason, the Court dismissed the objection raised by the Respondent State in this regard.

Although other aspects of its jurisdiction were not challenged by the Respondent State, the Court nevertheless examined all aspects of its jurisdiction and held that it had personal, temporal and territorial jurisdiction to determine the Application.

On admissibility, the Respondent State contended that the Application was inadmissible due the Applicant's failure to exhaust local remedies and for not filing the Application within a reasonable time.

Regarding the Respondent State's objection that the Applicant failed to exhaust local remedies, the Court considered that the Applicant exhausted local remedies since the Respondent State's Court of Appeal, the highest judicial organ in the Respondent State, had upheld his conviction and sentence, following proceedings which allegedly violated his rights. The Court further held that the Respondent State had ample opportunity to address the violations alleged by the Applicant arising from the Applicant's trial and appeals, including the allegation that he was denied legal aid, which according to the Respondent State, the Applicant raised this grievance for the first time in his Application before this Court. In light of the foregoing, the Court dismissed the Respondent State's objection based on the non-exhaustion of local remedies.

In its second objection, the Respondent State claimed that the Application was not filed within a reasonable time after local remedies were exhausted, as required under Article 56(6) of the Charter, as restated in Rule 50(2)(f) of the Rules of Court. In this regard, the Respondent State deemed the six (6) years, two (2) months and two (2) days it took for the Applicant to bring his claim to this Court as unreasonable.

In the instant case, and although the Applicant was, at the material time, incarcerated, the Court considered that he hadn't provided the Court with compelling arguments, and sufficient evidence, to demonstrate that his personal situation prevented him from filing the Application in a more timely manner.



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In view of the foregoing, the Court found that the filing of the Application six (6) years, two (2) months and two (2) days after exhaustion of local remedies is not a reasonable time within the meaning of Article 56(6) of the Charter and Rule 50(2)(f) of the Rules. The Court, therefore, upheld the Respondent State's objection in this regard.

Having found that the Application had not satisfied the requirement in Rule 50(2)(f) of the Rules, the Court needed not rule on the Application's compliance with the admissibility requirements set out in Article 56(1), (2), (3), (4), and (7) of the Charter as restated in Rule 50(2)(a), (b), (c), (d) and (g) of the Rules, as these conditions are cumulative.

In view of the foregoing, the Court declared the Application inadmissible, and 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/0262017>

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).*