

JUDGMENT SUMMARY

ROMWARD WILLIAM V. UNITED REPUBLIC OF TANZANIA
APPLICATION NO. 030-2016
JUDGMENT ON MERITS AND REPARATIONS
13 FEBRUARY 2024

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

Arusha, 13 February 2024: The African Court on Human and Peoples' Rights (the Court) delivered a Judgment in the case of *Romward William v. United Republic of Tanzania*.

Romward William (hereinafter referred to as “the Applicant”), is a Tanzanian national, who alleged violation of his right to a fair trial in proceedings before the domestic courts.

The Court first determined where it had jurisdiction to hear the Application. In this regard, the Respondent State raised an objection to the Court’s material jurisdiction, submitting that the Court was not vested with the jurisdiction to sit as a court of appeal and adjudicate on matters that had been finalized by its highest judicial organ. In its decision, the Court held that it had material jurisdiction because its mandate is to hear cases of alleged violation of human rights guaranteed under instruments ratified by the Respondent State. Furthermore, that even if it is not an appellate court vis-à-vis domestic courts, it retains the power to assess the propriety of domestic proceedings against standards set out in international human rights instruments ratified by the State concerned.

The Court then assessed whether the other aspects of its jurisdiction were satisfied. In this regard, it 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 to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol). This Declaration allows individuals to file applications against the Respondent State in accordance with 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



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withdrawal took effect on 22 November 2020, which is after the Application had been filed before the Court, on 2 October 2017.

With regard to temporal jurisdiction, the Court noted that the alleged violations happened between 2012 and 2016. It further noted that the alleged violations occurred after the Respondent State had ratified the African Charter on Human and Peoples' Rights (the Charter) on 21 October 1986 and the Protocol on 10 February 2006. Therefore, the Court's temporal jurisdiction had been satisfied. The Court also noted that it had territorial jurisdiction given that the alleged violations occurred in the Respondent State's territory.

The Court also determined whether the Application was admissible as provided for under Article 6(2) of the Protocol and Article 56 of the Charter. In this regard, the Court first considered the objection raised by the Respondent State on non-exhaustion of local remedies and noted that, the Applicant was convicted of murder and sentenced to death on 26 June 2015 by the High Court of Tanzania sitting in Tabora. He appealed to the Court of Appeal, the highest judicial organ in the Respondent State, which upheld the judgment of the High Court by its judgment of 26 February 2016. Therefore, the Court held that the Applicant had exhausted local remedies in fulfillment of the requirement of Rule 50(2)(e) of the Rules of Court (the Rules).

Although other conditions of admissibility were not challenged by the Respondent State, the Court nonetheless had to ensure that they had been fulfilled. In this regard, it held that, the Applicant had been clearly identified by name in fulfillment of Rule 50(2)(a) of the Rules. It also held that the allegations 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 complied 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 fulfillment of Rule 50(2)(c) of the Rules, and also that the Application was not based exclusively on news disseminated through mass media in fulfillment of Rule 50(2)(d) of the Rules.

The Court was also satisfied itself that the Application was filed within a reasonable time after the exhaustion of local remedies, and that it did not raise allegations already settled before another



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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 had violated the Applicant's rights guaranteed under Article 2, 4 and 5 of the Charter, by its conduct in the assessment of evidence and sentencing the Applicant to death.

In this regard, the Applicant averred that he did not receive a fair trial, because the evidence adduced by the prosecution witnesses during his trial did not prove that he intended to kill the victim. In consideration of the allegation, the Court, relying on the records on file, held that the national courts had respected the procedures of a fair trial and had given the Applicant the opportunity to put up his defence. The Court found that the evidence adduced by the prosecution proved its case beyond any reasonable doubt. Consequently, the Court dismissed the Applicant's allegation.

The Applicant also alleged that his sentence to death was a violation of the right to life as defined under Article 4 of the Charter. The Court noted that if the sentence fulfilled three requirements then it would not be considered a violation. The requirements are: the sentence should have been provided for by law; meted out by a competent Court and follow due process. The Court found that, the death penalty was provided for by the Penal Code and was meted out by the High Court, which was a competent court. As regards whether it was meted out following due process, although, the Court did not establish any fault with the trial process leading to the conviction, , it noted that the death penalty was a mandatory sentence for convicts of murder, leaving the judge with no discretion to sentencing, and therefore breaching the principle of due process, thereby violating Article 4 of the Charter.

The Court also determined that the Applicant's right to dignity had been violated. In this regard, the Court found that the time spent awaiting the execution of the death sentence caused anxiety and distress and therefore, it is inherently inhuman and encroaches on human dignity.



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The Applicant prayed the Court to order reparations for the alleged violations. The Court having established the violation of Article 4 and 5 of the Charter as regards the issuance of the death penalty and the time spent on death-row, ordered the Respondent State to pay the Applicant moral damages to the tune of Tanzanian Shillings Three Hundred Thousand (TZS 300,000) as compensation for the moral anguish suffered. The Court further ordered the Respondent to, within six (6) months, remove from its Penal Code, the mandatory imposition of the death penalty, and the use of hanging as a method of executing the death penalty, and to, within one (1) year, remove the Applicant from death-row and re-hear his sentencing based on a procedure that allows for judicial discretion.

The Court however rejected the Applicant's request to quash his conviction, noting that it had not found the Applicant's conviction to be illegal. Regarding the prayer for release, the Court held that the Applicant failed to show specific and compelling circumstances to justify his release and therefore rejected this request.

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/0302016>

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