


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

APPLICATION NO. 060/2019

ELINAZI ELIABU Alias MSHANA.....APPLICANT

V.

UNITED REPUBLIC OF TANZANIA.....RESPONDENT

CASE SUMMARY

I. THE PARTIES

1. Mr. Elinazi Eliabu alias Mshana (hereinafter referred to as the “Applicant”) filed an application at the African Court on Human and Peoples’ Rights (hereinafter referred to as the “Court”) against the United Republic of Tanzania (hereinafter referred to as “the Respondent State”). At the time of filing the Application he was detained at Ukonga Prison, Dar es Salaam serving a 30-year direct imprisonment sentence having been tried, convicted and sentenced for the offence of armed robbery. He alleges the violation of his rights during the proceedings before the Respondent State’s national courts.
2. The Applicant alleges the violation of, among others, the rights enshrined in Articles 5, 6, and 7(1)(c) of the African Charter on Human and Peoples’ Rights (hereinafter “the Charter”).

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. From the record, the Applicant, along with four other accused persons, were arrested on suspicion of having committed armed robbery to properties within the city of Kawetele and in the region of Mbeya. On 22 April 2015, the Applicant, together with the four other accused persons, was convicted of armed robbery and sentenced to a 30-year imprisonment by the Resident Magistrate’s Court at Mbeya.
4. Aggrieved by the outcome the Applicants filed an appeal before the High Court of Tanzania at Mbeya which dismissed their appeal for lack of merit on 4 April 2019. Further aggrieved by this outcome, the Applicants went on to file an appeal before the Court of Appeal of Tanzania. On 30 August 2019, the Court of Appeal of Tanzania dismissed their appeal.
5. The Application was filed before this Court on 15 November 2019.

B. Alleged Violations

6. The Applicant alleges the violation of the following:
- i. The right to fair trial, guaranteed under Article 7 of the Charter.
 - ii. The right to be tried within reasonable time guaranteed under Article 7(1)(d) of the Charter.
 - iii. The right to dignity and prohibition against torture, degrading and inhumane treatment, guaranteed under Article 5 of the Charter.
 - iv. The right to liberty, guaranteed under Article 6 of the Charter.

C. Prayers of the Applicant

7. On merits, the Applicant prays to the Court for the following:
- i. The Court to find that it has jurisdiction to hear the Application.
 - ii. The Court to find the Application admissible.
 - iii. To find that the Respondent State has violated the Applicant's rights to a fair trial, protected under Article 7(1)(c) of the Charter with regard to the right to be tried within a reasonable time.
 - iv. To find that the Respondent State has violated the Applicant's rights to liberty and personal freedom, protected under Article 6 of the Charter.
 - v. To find that the Respondent State has violated the Applicant's right to a fair trial under Article 7(1) of the Charter, with regard to flouted criminal procedures during the trial.
 - vi. To find that the Respondent State has violated the Applicant's rights to dignity and the prohibition against torture, degrading, and inhuman treatment as protected by Article 5 of the Charter.
 - vii. To allow the Application and make orders to quash the decisions of the Respondent State's trial and appellate courts and order the release of the Applicant from prison.
 - viii. The Respondent State be ordered to pay the Applicant reparations.
 - ix. Any other order(s) that the Court may deem fit and just to grant.

8. On reparations, the Applicant prays to the Court to grant the following orders:

- i. The setting aside of both the conviction and sentence imposed on the Applicant.
- ii. Restoration of the Applicants' liberty by releasing him from prison.
- iii. Payment of reparations in the amount of United States Dollars thirty thousand (USD 30,000) to the Applicant on account of moral damage suffered [sic].
- iv. Payment of reparations in the amount of United States Dollars fifteen thousand (USD 15,930) to the Applicant for loss of income [sic].
- v. Payments of United States Dollars twenty thousand USD 20,000 for the Applicant's dependants who are wife and three children [sic].
- vi. Any other order(s) that this Honourable Court may deem fit and just to grant.