


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		

THE MATTER OF

ADO SHAIBU AND OTHERS

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 046/2020

ORDER

(REOPENING OF PLEADINGS)

5 AUGUST 2025



The Court composed of: Modibo SACKO, President; Chafika BENSAOULA, Vice-President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Blaise TCHIKAYA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Dennis D. ADJEI, Duncan GASWAGA – 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, member of the Court, and a national of Tanzania, did not hear the Application.

In the matter of

Ado SHAIBU and Others

Represented by:

- i. Prof Chidi Anselm ODINKALU, Advocate;
- ii. Mr Ibrahim KANE, Advocate; and
- iii. Mr Donald DEYA, Executive Director, Pan African Lawyers Union, Advocate.

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

- i. Dr Ally POSSI, Solicitor General, Office of the Solicitor General;
- ii. Ms Sarah Duncan MWAIPOPO, Deputy Solicitor General, Office of the Solicitor General; and
- iii. Ms Nkasori SARAKEYA, Director of Human Rights, Ministry of Constitution and Legal Affairs.

After deliberation,

Issues the present Order.

I. THE PARTIES

1. Mr Ado Shaibu, Mr Ezekiah Dibogo Wenje, Mr Omar Mussa Makame, Ms Dorah Seronga Wangwe, Mr Enock Weges Suguta and Mr Kassim Ali Haji (hereinafter referred to as “Applicants”) are all nationals of the United Republic of Tanzania and members of the political party – Alliance for Change and Transparency (hereinafter referred to as “Act Wazalendo”). They allege that their rights were violated preceding, during and immediately after the 2020 general elections in the United Republic of Tanzania (hereinafter referred to as “the Respondent State”).
2. The Application is filed against the United Republic of Tanzania, which became a party to the African Charter on Human and Peoples’ Rights (hereinafter referred to as “the Charter”) on 21 October 1986 and to the Protocol on 10 February 2006. 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”), through which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations. On 21 November 2019, the Respondent State deposited an instrument withdrawing its Declaration with the Chairperson of the African Union Commission. The Court held that this withdrawal has no bearing on pending and new cases filed before the withdrawal came into effect, that is, one year after its deposit, which is on 22 November 2020.¹

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

II. SUBJECT MATTER OF THE APPLICATION

3. It emerges from the Application that, preceding, during and immediately after its 2020 general elections, the Respondent State allegedly, violated the rights of the Applicants to participate in the said elections. The alleged violations, involved unilateral appointment of commissioners to National Electoral Commission and the Zanzibar Electoral Commission by one party, “blatant and egregious discrimination on political grounds” against the Applicants and other electoral malpractices.
4. According to the Applicants, the above-mentioned conduct of the Respondent State cumulatively had the effect of curtailing the rights of the Applicants as candidates and registered voters to campaign and to participate in the elections.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

5. The Application was filed on 20 November 2020 and served on the Respondent State on 3 December 2020. The Parties filed on the merits and reparations after extension of time by the Court.
6. Pleadings were closed on 22 October 2024 and the Parties were duly notified.
7. On 7 February 2025, the Applicants filed a request for the Court to reopen the pleadings and grant them leave to file additional written submissions. The Court granted the request on 28 February 2025.
8. On 22 April 2025, pleadings were closed and the Parties were notified.
9. On 25 June 2025, the Respondent State requested the Court to adjourn proceedings, reopen pleadings and grant it extension of time to respond to the Applicants’ additional submissions and to file additional evidence.

10. On 2 July 2025, the Respondent State's request was transmitted to the Applicants for their observations, if any, within seven days.
11. On 10 July 2025, the Applicants filed their observations opposing the request for reopening the pleadings and the said observations were served on the Respondent State, on 18 July 2025, for information.

IV. ON THE REOPENING OF PLEADINGS

12. The Respondent State submits that it has enacted new laws that affect the conduct of its elections and therefore argues that it can adduce evidence that would resolve the Applicants' allegations. Accordingly, the Respondent State prays the Court to reopen pleadings and allow it to file additional evidence.
13. In their observations opposing the Respondent State's request for reopening of pleadings, the Applicants aver that the additional evidence that the Respondent State seeks to introduce has no bearing on the case. They further aver that the request is "an egregious and cynical abuse of process", and its aim is to "scandalise this honourable Court".
14. The Applicants thus pray the Court to dismiss the Respondent State's request and deliver a decision on the case "at the earliest possible extraordinary session".

15. Rule 46(3) of the Rules provides that "the Court has the discretion to determine whether or not to reopen pleadings". Furthermore, Rule 90 of the Rules stipulates that "[n]othing in these Rules shall limit or otherwise affect the inherent power of the Court to adopt such procedure or decisions as may be necessary to meet the ends of justice."

16. With regard to the Respondent State's request, the Court notes that the present Application involves elections in the United Republic of Tanzania, the issues raised in the Application are complex and the outcome of the matter could have a bearing beyond the present case. It is therefore in the interest of justice to allow the Respondent State to file a Response to the Applicants' additional submissions as well as additional evidence.
17. On the request of the Applicants for the Court to deliver a decision on this Application at an extra-ordinary session, the Court observes that, given its earlier ruling on the request for reopening of pleadings, further processing is required in the matter. As such, the Court finds it proper to direct that once the Respondent State files its additional evidence, the Applicants will be granted 15 days to file a Reply after which pleadings will be closed. The Application will subsequently be set for deliberation in accordance with the relevant procedure under the Rules.
18. In light of the foregoing, by virtue of its discretionary power mentioned above and with the aim of proper administration of justice, the Court dismisses the Applicants' request for a decision to be delivered during an extra-ordinary session. Accordingly, the Court grants the request of the Respondent State to reopen the pleadings and orders it to file its submissions, within 15 days.

V. OPERATIVE PART

19. For these reasons:

THE COURT,

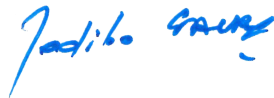
Unanimously,

- i. *Dismisses* the request for a decision to be rendered during an extra-ordinary session;

- ii. *Decides* that the pleadings in *Application No. 046 2020 – Ado Shaibu and Others v. United Republic of Tanzania* are reopened; and
- iii. *Orders* the Respondent State to file its submissions, within 15 days of the date of notification of this order.

Signed:

Modibo SACKO, President,



and Robert ENO, Registrar.



Done at Arusha, this Fifth Day of the Month of August in the Year Two Thousand and Twenty-Five, in English and French, the English text being authoritative.

