


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

ABDUL OMARY NONDO & OTHERS

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION Nos. 040/2020 & 043/2020
(CONSOLIDATED APPLICATIONS)

ORDER

(RE-OPENING OF PLEADINGS)

15 SEPTEMBER 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 Grace W. KAKAI, Deputy 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, Judge of the Court, and a national of Tanzania, did not hear the Application.

In the matter of:

Abdul Omary NONDO, Deusdedit RWEYEMAMU & Paul Revocatus KAUNDA

Represented by:

- i. Jebra KAMBOLE, Advocate, Law Guards Advocate; and
- ii. Prisca CHOGERO, Advocate, Centre for Strategic Litigation.

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

Dr. Ally POSSI, Solicitor General, Office of the Solicitor General.

After deliberation,

Issues this Order:

I. THE PARTIES

1. Abdul Omary Nondo, Deusdedit Valentine Rweyemamu and Paul Revocatus Kaunda (hereinafter referred to as “the First Applicant,” “the Second Applicant,” and “the Third Applicant” respectively or “the Applicants” jointly) are all Tanzanian nationals. They allege violation of, among others, their right to equality and equal protection before the law as well as their right to be heard as a result of various provisions in the electoral laws of Tanzania.
2. The Applications are filed against the United Republic of Tanzania (hereinafter referred to as “the Respondent State”), which became a Party to the African Charter on Human and Peoples’ Rights (hereinafter referred to as “the Charter”) on 21 October 1986 and the Protocol on 10 February 2006. It further deposited, on 29 March 2010, the Declaration under Article 34(6) of the Protocol by virtue of which it accepted the jurisdiction of the Court to receive cases from individuals and Non-Governmental Organisations (hereinafter referred to as “the Declaration”). 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 had no effect on pending and new cases filed before the entry into force of the said withdrawal one year after its deposit which, in the case of the Respondent State case, was on 22 November 2020.¹

II. SUBJECT OF THE APPLICATION

3. The First Applicant contends that Articles 74(1), 74(3), 74(5) and 74(14) of the Respondent State’s Constitution violate provisions of the Charter, the Universal Declaration of Human Rights (hereinafter referred to as “the

¹ *Andrew Ambrose Cheusi v. United Republic of Tanzania* (merits and reparations) (26 June 2020) 4 AfCLR 219, § 38.

UDHR”) and the International Covenant on Civil and Political Rights (hereinafter referred to as “the ICCPR”).²

4. The Second and Third Applicants allege that Articles 74(1) and 74(12) of the Respondent State’s Constitution and Article 119(13) of the Constitution of Zanzibar contravene the provisions of the Charter, the UDHR and the ICCPR.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

5. Application No. 040/2020 was filed by the First Applicant on 19 November 2020 and served on the Respondent State on 3 December 2020 with a request to file the list of its representatives and its Response to the Application within 30 days and 90 days respectively.
6. Application No. 043/2020 was filed by the Second and Third Applicant on 19 November 2020 and was served on the Respondent State on 3 December 2020 with a request to file the list of its representatives and its Response to the Application within 30 days and 90 days respectively.
7. By Order of 30 March 2021, the Court, *suo motu*, ordered the joinder of the above-mentioned Applications in the interest of the fair administration of justice. The Order was duly notified to the Parties on 31 March 2021.
8. On 14 February 2022, the Respondent State filed its Response to Application No. 040/2020, which was notified to the Applicants on 17 February 2022.
9. On 6 July 2022, the Respondent State filed its Response to Application No. 043/2020, which was notified to the Applicants on 15 July 2022.

² The Respondent State ratified the ICCPR on 11 June 1976.

10. The Parties filed their other pleadings within the time frames permitted by the Court. Pleadings were closed on 11 September 2024 and the Parties were duly notified.
11. On 25 June 2025, the Respondent State filed a submission which included attachments that it requested the Court to consider.
12. On 3 July 2025, the Respondent State's request was transmitted to the Applicants for their observations, if any, within 15 days. The Applicants did not file any observations.

IV. ON THE REOPENING OF PLEADINGS

13. The Respondent State points out that it has enacted Act No. 2 of 2024 on the Independent National Electoral Commission. It submits, therefore, that the Court ought to take the said law into account as it considers this matter.

14. Rule 46(3) of the Rules provides that "[t]he Court has the discretion to determine whether or not to reopen pleadings". Additionally, Rule 46(4) provides that "[n]o party may file additional evidence after the close of pleadings except by leave of court".
15. Further, 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". This discretionary power is exercised in the interests of justice, taking into account the circumstances of each case.
16. With regard to the Respondent State's submission, the Court observes that it is important that its decisions consider all relevant legal developments within the Respondent State including legislation enacted recently. The

interests of justice necessitate, therefore, that the Respondent State's submissions be deemed to have been properly filed.³

17. Consequently, in the interests of justice, the Court holds that pleadings should be reopened, and the Respondent State's submission be deemed to have been properly filed.

V. OPERATIVE PART


18. For these reasons:


THE COURT,

Unanimously,

- i. *Decides that the pleadings in Consolidated Application No. 040-2020 and 043 -2020 – Abdul Omary Nondo and Others v. United Republic of Tanzania are reopened; and*
- ii. *Decides that the Respondent State's submission dated 24 June 2025 be deemed to have been properly filed.*

Signed:

Modibo SACKO, President, 

and Grace W. KAKAI, Deputy Registrar. 

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



³ *Kennedy Owino Onyachi & Anor v United Republic of Tanzania* (reopening of pleadings) (20 July 2021) 5 AfCLR 321 §§14-16 and *Almas Mohamed Muwinda & Ors v United Republic of Tanzania* (reopening of pleadings) (5 March 2021) 5 AfCLR 82 §§14-15.