



AfCHPR

African Court on Human
and Peoples' Rights

Arusha, Tanzania

Website: www.african-court.org

Telephone: +255-272-510-510

JUDGMENT SUMMARY

ADO SHAIBU AND OTHERS

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 046/2020

JUDGMENT ON MERITS AND REPARATION

6 MARCH 2026

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

Arusha, 6 March 2026: The African Court on Human and Peoples' Rights (the Court) today delivered a Judgment in the case of *Ado Shaibu and Others v. United Republic of Tanzania*.

Mr Ado Shaibu, Mr Ezekiah Dibogo Wenje, Mr Omar Musa Makame, Ms Dorah Seronga Wangwe, Mr Enock Weges Suguta and Mr Kassim Ali Haji (hereinafter referred to as ("Applicants")) are nationals of the United Republic of Tanzania and members of the political party - Alliance for Change and Transparency. They filed their Application against the United Republic of Tanzania ("The Respondent State") claiming violations of their civil and political rights, preceding, during and immediately after the 2020 general elections in the Respondent State.

In accordance with Article 3 of the Protocol to the African Charter on Human and People's Rights on the Establishment of An African Court on Human and Peoples' Rights ("The Protocol"), the Court first determined whether it had jurisdiction to hear the Application. In this regard, the Respondent State objected to the material jurisdiction of the Court, stating that the Court's jurisdiction is limited and therefore it cannot determine issues that fall purely under the jurisdiction of its national courts. In its decision, the Court dismissed the objection and found that even though its



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jurisdiction is limited by the Protocol, it is empowered to determine applications which raise alleged violations of rights guaranteed by the Charter, the Protocol or any other human rights instruments ratified by the Respondent State. Therefore, since the Applicants' alleged violations of human rights protected by the Charter and other human rights instruments, the Court's material jurisdiction was satisfied.

Although the other aspects of the Court's jurisdiction were not contested by the Respondent State, the Court examined them as required by its Rules. In this regard, the Court 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. 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 Application was filed before the Court on 20 November 2020, while the withdrawal took effect on 22 November 2020.

With regard to temporal jurisdiction, the Court found that most of the alleged violations occurred in 2020, that is, after the Respondent State had ratified the Protocol. Moreover, the alleged violation as regards article 41(7) of the Respondent State's Constitution of 1977 on the inability to challenge the result of presidential elections, is continuing as it still remains in the Constitution to date, and therefore, the Court's temporal jurisdiction was satisfied. Lastly, the Court held that it had territorial jurisdiction as the alleged violations occurred in the Respondent State's territory which is a party to the Charter and the Protocol. The Court then held that it had jurisdiction to hear the case.

The Court then considered, in accordance with Article 56 of the Charter and Rule 50(2) of the Rules of Court (hereinafter referred to as "the Rules"), whether the Application was admissible. In this regard, the Respondent State raised three objections to the admissibility of the Application. First, the Respondent State argued that the Application was based exclusively on news disseminated by the mass media, and therefore did



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not comply with Rule 50(2)(d) of the Rules. In its decision, the Court found that the Application was based on some media reports but also on other documents such as affidavits. Therefore, the Court dismissed the objection and found that the Application complied with the provision of Rule 50(2)(d) of the Rules.

Second, the Respondent State argued that the Applicants filed their case before the Court, prematurely as they had not exhausted local remedies. The Court in its decision found that the Applicants had not exhausted local remedies as they had only made unsubstantiated general statements on there being a climate of fear in the country which impeded them from exhausting local remedies. Nevertheless, the Court found that the allegation relating to the lack of remedies to challenge the result of presidential elections was admissible as there was no remedy to challenge result of presidential elections in the national courts of the Respondent State.

Lastly, the Respondent State contended that the allegation relating to the lack of remedies to challenge the result of presidential elections was inadmissible because it had already been settled by the Court in its decision on the matter of *Jebra Kambole v Tanzania*. In its decision, the Court held that for a matter to be settled there must be a convergence of three conditions: the identity of the parties; (ii) the identity of the applications or their supplementary, consecutive or alternative nature or whether the case flows from a request made in the initial case and (iii) the existence of a first decision on the merits. In this regard, the Court found that the identity of the parties was not the same as the Kambole case had been filed by an individual in the public's interest while the present case had been filed by individuals allegedly affected by the conduct of the elections. Therefore, the Court found that the alleged violation herein had not been settled.

With regard to the allegation on the lack of remedy to challenge the result of presidential elections in the national courts of the Respondent State which the Court found to be admissible, the Court had to ensure that the other conditions of admissibility had been fulfilled before determining its merit. In this regard, the Court



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found that the Applicants had clearly been identified by names, Applicants' claims sought to protect their rights guaranteed under the Charter and the language used in the Application was not disparaging or insulting to the Respondent State in fulfilment of Rule 50(2)(a), (b) and (c) respectively.

With regards to the condition on filing the Application within a reasonable time, the Court noted that the time to be considered was the time between the deposit of the Declaration, which is, 29 March 2010 and the date of the filing of the Application, 20 November 2020, a period of 10 years, six months and 22 days. In its finding, the Court observed that since the alleged violation is continuing as the impugned provision remains in the Constitution of the Respondent State, the time limit for seizing the Court had not begun to run. Therefore, the Application complied with Rule 50(2)(f) of the Rules. The Court also found that the allegation on the right to challenge the presidential elections does not concern a subject matter which has already been settled according to the Charter, the Constitutive Act of the AU or the UN Charter in accordance with Rule 50(2)(g) of the Rules.

On the merits of the case, the Applicants alleged that there was no remedy to challenge presidential elections after the announcement of the winner by the Electoral Commission and that this violated their right to a fair trial under Article 7(1) of the Charter and the obligation of Member States to put up measures that would give effect to the Charter under Article 1 thereof. In its decision, the Court found in accordance with its previous jurisprudence that article 41(7) of the Respondent State's Constitution, in so far as it bars courts from inquiring into the election of a presidential candidate who has been declared elected by the Electoral Commission, violates Article 1 and 7(1) of the Charter.

The Court having found the violation of Articles 1 and 7(1) of the Charter, ordered the Respondent State to take all necessary constitutional and legislative measures, within one year, to ensure that article 41(7) of its Constitution is amended and aligned with the provisions of the Charter.



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Each Party was ordered to bear its own costs.

A joint Separate Opinion of Justice Tchikaya and Justice Anukam is appended to the judgment in accordance with Article 28(7) of the Protocol and Rule 70(3) of the Rules in which they argued that the Court should have separated the consideration of the alleged violation of rights involving physical violence and the rights allegedly violated by the electoral laws.

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/046/2020>

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.