



# AfCHPR

African Court on Human  
and Peoples' Rights

Arusha, Tanzania

Website: [www.african-court.org](http://www.african-court.org)

Telephone: +255-272-510-510

**JUDGMENT SUMMARY**

---

**SONG LEI**

**V. UNITED REPUBLIC OF TANZANIA**

**APPLICATION NO. 066/2019**

**JUDGMENT ON MERITS AND REPARATIONS**

**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) delivered a judgment in the case of *Song Lei v. United Republic of Tanzania*.

Song Lei (the Applicant) is a businessman and a national of the People's Republic of China residing in the United Republic of Tanzania (the Respondent State). At the time of filing this Application, he was incarcerated at Ukonga Central Prison, Dar es Salaam, having been tried, convicted and sentenced to 20 years of imprisonment for, among others, unlawful dealing in trophies and unlawful possession of government trophy, specifically rhinoceros horns. He alleges violation of his rights during proceedings before the Tanzanian courts.

The Respondent State objected to the jurisdiction of the Court as well as to the admissibility of the Application.

Concerning the Court's jurisdiction, the Respondent State raised an objection to the Court's material jurisdiction. Specifically, the Respondent State contended that this Court is being seized to evaluate evidence and, therefore, to act as an appellate court whereas it lacks such jurisdiction. Furthermore, the Respondent State claimed that the Applicant does not demonstrate any link between the faulted proceedings of its domestic courts and the alleged human rights violation.

With regard to the contention that the Court would be exercising appellate jurisdiction, the Court reiterated its jurisprudence that it does not exercise appellate jurisdiction with respect to claims already examined by national courts. At the same time, however, and even though the Court 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

---

**JUDGMENT SUMMARY**

instruments ratified by the State concerned. In conducting the aforementioned task, the Court held, it does not thereby become an appellate court.

Concerning the Respondent State's objection that the Applicant did not demonstrate any link between the faulted proceedings of its domestic courts and the alleged human rights violation, the Court held that this is an issue to be dealt with on the merits and not in relation to the determination of its jurisdiction.

As to the Respondent State's objection that the Court lacked jurisdiction to quash the entire proceedings before the trial and appellate courts, the Court recalled Article 27(1) of the Protocol, and concluded that it has jurisdiction to grant different types of reparations, including an order to declare proceedings in the national courts null and void, an order to annul a conviction and sentence, and to order the release of an Applicant from prison, provided that the alleged violation has been established.

The Court further noted that given that the alleged violations presented before it pertained to rights enshrined in the Charter, to which the Respondent State is a Party, it possessed the necessary material jurisdiction to examine the Application.

For these reasons, the Court dismissed the objection raised by the Respondent State to its material jurisdiction.

Although other aspects of its jurisdiction were not challenged by the Respondent State, the Court nevertheless examined them. 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, which allows individuals to file applications against the Respondent State as per 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 withdrawal took effect on 22 November 2020, which was after this Application had been filed, on 17 December 2019.

The Court also held that it had temporal jurisdiction as the alleged violations occurred after the Respondent State had become a party to the Protocol. Lastly, it found that it had territorial

---

**JUDGMENT SUMMARY**

jurisdiction given that the facts of the matter occurred within the territory of the Respondent State, which is a party to the Charter and Protocol.

The Court observed that pursuant to Article 6(2) of the Protocol, it must rule on the admissibility of all cases brought before it. In respect of this Application, the Respondent State raised an objection to the admissibility of the Application based on the non-exhaustion of local remedies.

Regarding the Respondent State's objection that the Applicant failed to exhaust local remedies, the Court found that the Applicant exhausted local remedies since the Respondent State's Court of Appeal, the highest judicial organ in the Respondent State, had upheld his conviction and sentence, following proceedings in which the Respondent State had the opportunity to address the violations alleged by the Applicant as arising from his trial and appeals. For this reason, the Court dismissed the Respondent State's objections to the admissibility of the Application.

The Court observed that no objection had been raised with respect to the other admissibility requirements, nonetheless, in line with Rule 50(1) of the Rules, it assessed all admissibility criteria provided for in Rule 50(2) of the Rules, which in substance restates the provisions of Article 56 of the Charter, to ensure that the Application fulfilled the necessary standards.

Accordingly, the Court held that the Applicant had been clearly identified by name, in fulfilment 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 fulfilment of Rule 50(2)(c) of the Rules. The Application was also not based exclusively on news disseminated through mass media, as it was based on court documents from the domestic courts of the Respondent State, in fulfilment of Rule 50(2)(d) of the Rules.

With regard to the requirement that the Application be submitted within a reasonable time, the Court noted that the final decision of the Court of Appeal of Tanzania was delivered on 30

**JUDGMENT SUMMARY**

---

August 2019 and the Applicant filed his Application before this Court on 17 December 2019, so that a period of three months and 17 days thus lapsed. The Court found that the period of 3 months and 17 days is manifestly reasonable within the meaning of Rule 50(2)(f).

Lastly, the Court found that the case had not been previously settled before another international tribunal and was thus in compliance with Rule 50(2)(g) of the Rules. Therefore, the Court concluded that the Application was admissible.

The Court then considered whether the Respondent State violated the Applicant's rights to equality before the law, to equal protection of the law, to dignity and to a fair trial, protected under Articles 3(1), (2), 5 and 7 of the Charter, respectively. The Court observed, however, that the main contention in the Application centred on Article 7(1) of the Charter, the Applicant's right to have his cause heard, hence, this alleged violation was addressed first.

The Applicant raised different grievances against the domestic courts whose actions or omissions he alleged violated his rights. These grievances concerned (i) the evidence upon which the conviction was based, (ii) the competence of the interpreter, and (iii) the denial of bail.

On the allegation relating to the evidence upon which the conviction was based, the Court recalled its earlier decisions, where it noted that domestic courts enjoy a wide margin of appreciation in evaluating the probative value of particular evidence. As an international human rights court, the Court cannot take up this role from the domestic courts and investigate the details and particularities of evidence used in domestic proceedings. However, the Court can, in evaluating the manner in which domestic proceedings were conducted, intervene to assess whether domestic proceedings, including the assessment of the evidence, was done in consonance with international human rights standards. In the instant case, after close examination of the record, the Court noted that that the High Court and the Court of Appeal took time to consider, assess and confirm the credibility of the evidence as well as the alleged procedural irregularities, and found that the charges against the Applicant were proven beyond reasonable doubt. The Court, therefore, considered that the manner in which the proceedings before the domestic courts were conducted, including the consideration of the evidence, revealed no manifest errors or miscarriage of justice requiring its intervention. The Court,

**JUDGMENT SUMMARY**

accordingly, dismissed the Applicant's allegations and held that the Respondent State did not violate his right to be heard, protected under Article 7(1) of the Charter.

On the allegation relating to the competence of the interpreter, the Court recalled its previous decision in *Armand Guehi v. United Republic of Tanzania*, where it held that every accused person has the right to an interpreter which is an aspect of fair trial under Article 7(1)(c) of the Charter read jointly with Article 14(3)(a) of the International Covenant on Civil and Political Rights (ICCPR) and that in cases where the accused cannot understand or speak the language that is being used in court, he or she is entitled to an interpreter. In the instant case, the Court held that the Respondent State did not violate Article 7(1)(c) of the Charter, read jointly with Article 14(3)(a) and (f) of the ICCPR, on the right to defence with regard to the right to be assisted by an interpreter, as the facts revealed that the Applicant's ability to defend himself were not affected by the language issue, considering, among others, that interpretation was provided from Kiswahili to Chinese and vice versa and that he was represented by counsel during the trial and appellate proceedings.

On the allegation relating to the denial of bail, the Court observed that the Charter does not explicitly guarantee the right to bail in any of its provisions. However, the ICCPR, in Article 9(3), affirms that the detention of individuals accused of having committed crimes should be an exceptional measure. Those awaiting trial ought to be granted bail unless specific circumstances necessitate detention, such as the need to uphold the integrity of the trial and prevent the risk of absconding. The Court emphasised that the decision on whether to grant bail to an accused demands an individualised assessment, taking into account the unique facts of each case and the specific circumstances of the Applicant. The Court further noted that there may be circumstances warranting the denial of bail. In the instant case, the Court observed that the Magistrate's Court, in its Ruling delivered on 24 November 2015, duly considered different reasons for denying bail to the Applicant and his co-accused, including the severity of the charge against the Applicant, the severity of the sentence it may attract, the necessity to guarantee the presence of the Applicant during the whole trial, as well as the risk of abscondment and the devastating consequences on the case should it materialise. In view of the foregoing, the Court found that the domestic court's decision to deny bail to the Applicant does not reveal any manifest errors requiring its intervention. The Court, therefore, dismissed the Applicant's allegation and held that the Respondent State did not violate the Applicant's

**JUDGMENT SUMMARY**

right to be heard, protected under Article 7(1) of the Charter, read jointly with Article 9(3) of the ICCPR, concerning the Applicant's right to bail.

On the alleged violation of the right to dignity with respect to the sentence imposed on him, the Court noted that the trial court imposed the sentence in accordance with the law, as provided for in the Economic and Organised Crimes Control Act and the Wildlife Conservation Act. The Court further noted that following his appeal before the High Court, the Applicant was acquitted on the first count and that only the conviction, sentence and orders entered against him in respect of the second and third counts were upheld. The Court further took into consideration that the domestic court considered the gravity of the offence in passing the sentence, as duly provided by law. In these circumstances, the Court found that the Applicant failed to prove the alleged violation and held that the Respondent State did not violate his right to dignity, guaranteed in Article 5 of the Charter, with regard to the sentence imposed on him.

On the alleged violation of the right to equality before the law and of the right to equal protection of the law, the Court noted that the Applicant had failed to expound the basis of the alleged violation of Article 3 of the Charter. The Court also noted that the Applicant was able to make use of all the legal remedies available to him and that he was able to defend himself in accordance with the protections provided by law. Accordingly, the Court found that the Applicant did not prove the alleged violation and held that the Respondent State did not violate his rights to equality before the law and equal protection of the law protected under Article 3 of the Charter.

Having found that the Respondent State did not violate any of the Applicant's rights, the Court dismisses the Applicant's prayers for reparations. As to costs, the Court decided that each party should 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/0662019>

For any other queries, please contact the Registry by email [registrar@african-court.org](mailto: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*

Arusha, Tanzania

Website: [www.african-court.org](http://www.african-court.org)

Telephone: +255-272-510-510

## **JUDGMENT SUMMARY**

---



*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](http://www.african-court.org).*