

Damian v Tanzania (leave to amend) (2019) 3 AfCLR 8

Application 048/2016, *Dominick Damian v United Republic of Tanzania*
Order, 13 February 2019. Done in English and French, the English text
being authoritative.

Judges: ORE, KIOKO, BEN ACHOUR, MATUSSE, MENGUE,
MUKAMULISA, CHIZUMILA, BENSAOULA, TCHIKAYA and ANUKAM

Recused under Article 22: ABOUD

Request by the Applicant to amend the Application and file further
evidence granted by the Court.

Procedure (leave to amend, 4)

I. The Parties

1. The Applicant, Dominick Damian, is a national of the United Republic of Tanzania (hereinafter referred to as “the Applicant”). He was convicted of murder contrary to Section 196 of the Penal Code of the United Republic of Tanzania and on 14 December 2012, was sentenced to death by the High Court of Tanzania sitting at Bukoba. His conviction and sentence were upheld by the Court of Appeal of Tanzania sitting at Mwanza on 17 March 2014.
2. The Respondent State, the United Republic of Tanzania, became a party to the African Charter on Human and Peoples’ Rights (the Charter) on 21 October 1986 and to the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (the Protocol) on 10 February 2006. On 29 March 2010, the Respondent State deposited its declaration as prescribed under Article 34(6) of the Protocol.

II. Prayers of the Parties

3. The Applicant prays:
 - i. permission from this Honourable Court to amend Application No. 048/2016 (the 2016 Application”) or submit a supplement to the 2016 Application;
 - ii. permission to file further evidence in his defence, pursuant to Rule 50 of Rules of Court;
 - iii. that the Court defer drafting judgment in this matter until the Applicant has made the contemplated further submissions; and

iv. that these matters be addressed at an oral proceeding, pursuant to Rules 27 and 71 of the Rules of Court.”

4. The Respondent State did not respond to the prayers of the Applicant.

The Court

- i. Grants the Applicant leave to amend his Application and submit further evidence in support of the same within fifteen (15) days of notification of this Order.
- ii. Reserves its decision on the request to hold a public hearing.