

Jeshi v Tanzania (re-opening of pleadings) (2019) 3 AfCLR 437

Application 017/2016, *Deogratius Nicolaus Jeshi v United Republic of Tanzania*

Order, 19 August 2019. Done in English and French, the English text being authoritative.

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

Recused under Article 22: ABOUD

Pleadings re-opened in the interests of justice at the request of the Respondent State.

Procedure (re-opening of pleadings, IV)

I. The Parties

1. Mr Deogratius Nicolaus Jeshi, (hereinafter referred to as “the Applicant”) is a national of Tanzania, who was arrested and convicted for the crime of murder and sentenced to death by the High Court Tanzania at Karagwe on the 22 June 2010. He filed an appeal at the Court of Appeal of Tanzania at Bukoba (Criminal Appeal 211 of 2010), and on 7 March 2012, the Court of Appeal upheld the decision of the High Court. The Applicant is currently on death row at Butimba Central Prison, Mwanza.
2. The Respondent State is 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, by which it accepts the jurisdiction of the Court to receive applications from individuals and NGOs.

II. Subject matter of the Application

3. The Application, filed on 22 March 2016, is based on the Respondent State’s alleged violations of the Applicant’s rights to fair trial, equality before the law and equal protection by the law, the right to defence, including the right to be defended by counsel of his choice, as provided for under Articles 2, 3(1) and (2) and

7(1)(c) of the Charter, as well as Articles 13(6)(a) and 107(a)(2)(b) of the Respondent State's Constitution of 1977.

III. Summary of the procedure before the Court

4. The Court issued an Order for Provisional Measures on 3 June 2016, directing the Respondent State to refrain from executing the death penalty against the Applicant pending the determination of the Application.
5. The Parties filed their submissions on the merits within the time stipulated by the Court, which were duly exchanged between them.
6. The Applicant filed his submission on reparations on 6 August 2018, which was transmitted to the Respondent State on 30 August 2018.
7. After extensions of time granted to the Respondent State on 4 October 2018; 18 February 2019 and 15 March 2019, on 13 June 2019, pleadings were closed and the Parties were duly notified.
8. On 5 August 2019, the Respondent State filed its Response to the Applicant's submission on reparations.

The Court

- i. Orders that the proceedings in Application 017/2016 - *Deogratius Nicolaus Jeshi v United Republic of Tanzania* be and are hereby reopened;
- ii. Rules that, in the interests of justice, the Respondent State's Response to the Applicant's submissions on reparations be deemed to have been properly filed; and
- iii. Orders the Applicant to submit his Reply to the Respondent State's Response, if any, within thirty (30) days of receipt thereof.