

Kisase v Tanzania (re-opening of pleadings) (2019) 3 AfCLR 435

Application 005/2016, *Sadick Marwa Kisase v United Republic of Tanzania*

Decision, 19 August 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

The Court ordered the re-opening of pleadings after having received the Respondent State's pleadings on reparations after pleadings had been closed.

Procedure (re-opening of pleadings, 8)

I. The Parties

1. Sadick Marwa Kisase, (hereinafter referred to as “the Applicant”) is a national of Tanzania, who was arrested and convicted for the offence of armed robbery and sentenced to thirty (30) years imprisonment by the District Court of Geita. He filed an appeal at the High Court, Mwanza (Criminal Appeal No 85 of 2009) and later at the Court of Appeal of Tanzania, Mwanza (Criminal Appeal No 83 of 2002). Both Appeals were dismissed, with the Court of Appeal upholding the decision of the lower courts on 26 July 2013. The Applicant is currently serving a thirty (30) years’ imprisonment sentence 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 the 13 January 2016, is based on the Respondent State’s alleged violations of the Applicant’s right to be heard, equal protection before the law and failure to provide

legal assistance during the proceedings at the domestic courts, as provided for under Articles 1, 7(1)(c), (d), 3(1), (2) of the Charter, as well as Articles 107A(2)(b) of the Tanzanian Constitution of 1977.

III. Summary of the procedure before the Court

4. The Parties filed their submissions on the merits within the time stipulated by the Court, which were duly exchanged between them.
5. The Applicant filed his submission on reparations on 27 September 2018, which was transmitted to the Respondent State on 28 September 2018.
6. After extensions of time granted to the Respondent State on 12 December 2018; 18 February 2019 and 15 March 2019, on 13 June 2019, pleadings were closed and the Parties were duly notified.
7. On 5 August 2019, the Respondent State filed its Response to the Applicant's submission on reparations.
8. The Court:
 - i. Orders that the proceedings in *Application No. 005/2016 – Sadick Marwa Kisase 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 as 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.