

Anudo v Tanzania (reopening of pleadings) (2020) 4 AfCLR 31

Application 012/2015, *Anudo Ochieng Anudo v United Republic of Tanzania*

Order, (reopening of pleadings), 8 September 2020. Done in English and French, the English text being authoritative.

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

Recused under Article 22: ABOUD

In a judgment on the merits delivered in 2018 the Court held that the Respondent State had violated certain rights of the Applicant arising from the confiscation of his passport and his declaration as an illegal immigrant. The Applicant failed to submit a Reply to the Respondent State's Response on Reparations until time elapsed. This application was brought for leave to reopen pleadings on Reparations. The Court ordered that pleadings be reopened.

**Procedure** (additional evidence requires exceptional circumstances, 10)

## I. Subject of the Application

1. Pursuant to the Judgment of the Court on the merits delivered on 22 March 2018, Mr. Anudo Ochieng Anudo (hereinafter referred to as "the Applicant") filed on 1 June 2018, his written submissions on reparations. In the said judgment, this Court found that the United Republic of Tanzania (hereinafter referred to as "the Respondent State") had violated Article 7 of the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter"), Article 15(2) of the Universal Declaration of Human Rights and Articles 13 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

## II. Brief background of the Matter

2. In the Application 012/2015, the Applicant alleged that the confiscation of his passport, the imposition of an "illegal immigrant" status and his expulsion from the Respondent State deprived him of the rights to nationality, freedom of movement, liberty and security of person as protected under the Tanzanian Constitution

and the Universal Declaration on Human Rights.

3. On 22 March 2018, the Court rendered the judgment whose operative part, at paragraphs (v), (vi) and (vii), read as follows:  
... (v) declares that the Respondent State arbitrarily deprived the Applicant of his Tanzanian nationality in violation of the article 15 of the Universal Declaration of Human Rights.  
(vi) declares that the Respondent State violated the Applicant's right not to be expelled arbitrarily.  
(vii) declares that the Respondent State has violated the Articles 7 of the Charter and 14 of the ICCPR relating to the Applicant's right to be heard.

### **III. Summary of the procedure before the Court**

4. On 29 March 2018, the Registry of the Court transmitted certified true copies of the Judgment on the merits to the Parties.
5. The Applicant filed submissions on reparations on 1 June 2018 and this was served on the Respondent State on 19 June 2018.
6. The Respondent State filed its Response on 5 December 2019 and this was served on the Applicant on 17 December 2019.
7. The Applicant did not file a Reply to the Respondent State's Response despite an extension of time to do so, granted by the Court on 7 February 2020.
8. Pleadings were closed on 15 July 2020 and the parties were duly notified.

### **IV. On the re-opening of pleadings**

9. The Court observes that Rule 50(2) of the Rules provides: "No party shall file additional evidence after closure of pleadings except by leave of Court".
10. The Court notes that this Rule envisages that additional evidence can be admitted only with leave of court and in exceptional circumstances.
11. The record shows that there were some difficulties in transmitting to the Applicant's new representatives, Dignity Kwanza, the Respondent State's submissions on reparations for them to file the Reply. Furthermore, the record also shows that the Applicant's status as a refugee in Uganda has made it difficult to continue the communication with his Counsel as regards consultations on the Reply to the Respondent State's response on and to provide the necessary information in that regard.

12. The Court considers that in view of the afore-mentioned exceptional circumstances and in the interest of justice, it is therefore appropriate to re-open pleadings in this matter.

## **V. Operative part**

13. For these reasons:

The Court

*Unanimously,*

- i. Orders that, in the interests of justice, pleadings in Application 012/2015 Anudo Ochieng Anudo vs. United Republic of Tanzania be and are hereby reopened.
- ii. The Respondent State's Response to the Applicant's submissions on reparations be served again on the Applicant.
- iii. The Applicant's Reply, if any, should be filed within thirty (30) days of receipt of the Respondent State's Response.