

Viking & anor v Tanzania (reopening of pleadings) (2020) 4 AfCLR 1

Application 006/2015, *Nguza Viking (Babu Seya) & anor v United Republic of Tanzania*

Order (reopening of pleadings), 10 February 2020. 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

This application for reopening of pleadings and for leave to file pleadings out of time was brought by the Respondent State because it had failed to respond to the application for reparations filed by the Applicants following the Court's judgment on the merit in the main matter. The Court granted the Respondent's application for leave.

Procedure (reopening of pleadings, 7)

I. Subject of the Application

1. The Application for reparations was filed by Messrs Nguza Viking and Johnson Nguza (hereinafter referred to as the first and second Applicant respectively) against the United Republic of Tanzania (hereinafter referred to as "the Respondent State") pursuant to the judgment of the Court on the merits of 23 March 2018. In the said judgment, this Court found that the Respondent State violated Articles 1 and 7(1)(c) of the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter") by reason of failure to provide the Applicants with copies of witness statements, failure to call material witnesses as well as failure to facilitate the first Applicant to conduct a test as to his impotence.
2. Having found these violations, the Court ordered the Respondent State "to take all necessary measures within a reasonable time to restore the Applicants' rights and inform the Court, within six (6) months, from the date of this judgment of the measures taken".
3. Pursuant to Rule 63 of the Rules, the Court directed the Applicants to file their submissions on reparations within thirty (30) days of the judgment and the Respondent State to file the submissions in response thereto within thirty (30) days of receipt of the Applicants' submissions.

4. On 23 August 2018, the Applicants filed their written submissions on reparations and this was transmitted to the Respondent State on 24 August 2018. The Respondent State is yet to file a Response.

II. Prayers of the parties

5. The Respondent State prays the Court to reopen pleadings and extend its time for filing its Response to the Applicants' submission on reparations.
6. The Applicants did not reply to the request of the Respondent State.

III. The Court

7. The Court observes that when pleadings are closed and a party requests for the same to be reopened, it has inherent power to decide to suspend the deliberation of such an Application, reopen the pleadings and admit new evidence filed by parties in the interest of proper administration of justice.
8. In the present Application, the Court reopens pleadings, grants the Respondent State leave to file its Response to the submissions on reparations filed by the Applicants within seven (7) days of notification of this Order.