

**Application No. 003/2014**  
**Ingabire Victoire Umuhoza**  
**v.**  
**The Republic of Rwanda**

**SUMMARY OF THE FACTS**

1. The Applicant, Ms. Ingabire Victoire Umuhoza, is a Rwandan citizen born on 3 October 1968 at Gisenyi, in the Western Province of the Republic of Rwanda.
2. The Applicant contends that when the genocide in Rwanda started in April 1994 she was in the Netherlands to further her university education in economics and business administration.
3. In the year 2000, she became the leader of a political party known as *Rassemblement Républicain pour la Démocratie au Rwanda (RDR)* (The Republican Movement for Democracy in Rwanda). She had been a member of the party since 1998.
4. Sometime later, a merger between this party and two other opposition parties (The ADR and the FRD) led to the creation of a new political party known as *Forces Démocratiques Unifiées (FDU Inkingi)* led by the Applicant till date.
5. In the year 2010, after spending nearly seventeen years abroad, the Applicant decided to return to Rwanda, according to her Counsel, to contribute in nation building.
6. Among her priorities was the registration of the political party *FDU Inkingi* in compliance with Rwandan law on political parties. This would have enabled the Applicant to develop the political party at the national level in preparation for future elections.
7. She did not attain this objective because as from 10 February 2010, charges were brought against her by the judicial police, the Prosecutor and Courts and Tribunals in Rwanda.
8. On 21 April 2010, the Applicant was remanded by the police and placed under detention.
9. She was accused of having committed the following crimes provided for and punishable under Rwandan law:
  - i. The crime of spreading the ideology of genocide provided and punishable under Law N° 18/2008 of 23 July 2008;

- ii. Aiding and abetting terrorism provided for and punishable under Law N° 45/2008 of 9 September 2008;
  - iii. Sectarianism and divisionism provided and punishable under Law N° 47/2001 of 18 December 2001; and
  - iv. Undermining the internal security of a state, spreading rumours which may incite the population against political authorities and mount the citizens against one another provided and punishable under Law N° 21/77 of 18 August 1997.
  - v. Establishment of an armed branch of a rebel movement provided and punishable under Article 163 of Law N° 21/77 of 18 August 1997.
  - vi. Attempted recourse to terrorism, armed force and any form of violence to destabilize established authority and violate constitutional principles contrary to Articles 21, 22, 24 and 164 of Law N° 21/77 of 18 August 1997.
10. She was successively condemned to 8 and later 15 years imprisonment by the High Court and the Supreme Court of Rwanda respectively.
11. The Applicant claims to have exhausted all local remedies, the judgment of the Supreme Court being *res judicata*.
12. The Applicant alleges that attempts to file an Application for review of her case before Rwandan courts has not yet materialized.

## **COMPLAINT**

13. The Applicant alleges violations of Articles of;
- i. Articles 1, 7, 10 and 11, 18 and 19 of the Universal Declaration of Human Rights;
  - ii. Articles 7, 3, 9 and 15 of the African Charter on Human and Peoples' Rights; and
  - iii. Articles 7, 14, 15, 18 and 19 of the International Covenant on Civil and Political Rights.

## **THE APPLICANT'S PRAYERS**

14. The Applicant prays for the following orders and remedies;
- i.
  - ii. An order of the Court to repeal with retroactive effect sections 116 and 463 of Organic Law N° 01/2012 of 2 May 2012 relating to the Penal Code as well as that of Law N° 84/2013 of 28 October 2013 relating to the punishment of the crimes of the ideology of the Genocide;
  - iii. Review of the Case;

- iv. Annulment of all the decisions that had been taken since the preliminary investigation up till the pronouncement of the last judgment;
- v. Release on parole; and
- vi. Payment of costs and reparations.

## **RESPONDENT'S PLEADINGS**

- 15. The Respondent contends that the application is inadmissible before the Court as it does not satisfy the conditions for admissibility pursuant to Article 56 of the African Charter on Human and Peoples' Rights.
- 16. The Respondent avers that the Applicant did not exhaust local remedies before approaching the African Court.
- 17. The Respondent contends that it did not violate any of the Applicant's rights. The Respondent contends that at all times it respect the Applicant's rights to equality before the law and equal protection of the laws provided for in Article 3 of the African Charter on Human and Peoples' Rights.
- 18. The Respondent contends that the rights to a fair trial, presumption of innocence, to defence, to be tried by an impartial court and to the legality of offences and penalties as provided for in Article 7(1) and 7(2) of the African Charter on Human and Peoples' Rights were fully respected during the Applicant's hearing.
- 19. The Respondent prays for the Court to;
  - i. Declare the application vexatious, frivolous and without merit; and
  - ii. To dismiss it with costs.

## **PROCEDURE**

- 20. By letter dated 3 March 2016, the Office of Legal Counsel and Directorate of Legal Affairs of the African Union Commission notified the Court of the submission of the Respondent's instrument of withdrawal of its Declaration made under Article 34(6) of the Protocol, which was received at the African Union Commission on 29 February 2016.
- 21. On 4 March 2016, the Court held a Public Hearing. The Applicant was represented by Advocate Gatera Gashabana and Dr. Caroline Buisman. The Respondent did not appear.
- 22. On 18 March 2016, the Court, by majority of nine to two, Justices Fatsah Ouguergouz and Rafâa Ben Achour dissenting adopted an Order as follows:
  - i. Orders that the Parties file written submissions on the effect of the Respondent's withdrawal of its Declaration made under Article 34(6) of the Protocol, within fifteen (15) days of receipt of this Order.

- ii. Decides that its ruling on the effect of the Respondent's withdrawal of its Declaration under Article 34(6) of the Protocol shall be handed down at a date to be duly notified to the Parties.
- iii. Orders the Applicant to file written submissions on the procedural matters stated in paragraph 15 above, within fifteen (15) days of receipt of this Order.