



African Court
on Human and Peoples' Rights

Arusha, Tanzania
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PRESS RELEASE
JUDGMENT SUMMARY

HAMAD MOHAMED LYAMBAKA V. UNITED REPUBLIC OF TANZANIA

APPLICATION No. 010/2016

RULING ON ADMISSIBILITY AND JURISDICTION

25 SEPTEMBER 2020

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Date of Press Release: 25 September 2020

Arusha, 25 September 2020: The African Court on Human and Peoples' Rights (the Court) delivered judgment in the case of *Hamad Mohamed Lyambaka v. United Republic of Tanzania*.

Mr Hamad Mohamed Lyambaka (hereinafter referred to as "the Applicant") is a Tanzanian national serving a thirty (30) year sentence for the offence of armed robbery. The Applicant is concurrently serving a life sentence for the offence of rape.

The Applicant alleged that the Respondent State violated his right to a fair trial following proceedings conducted in domestic courts, which led to his conviction and sentencing as earlier stated.

The Respondent State objected to the jurisdiction of the Court and the admissibility of the Application.

The Court first ruled on the Respondent State's objection that it lacked material jurisdiction. On the said objection, that this Court is being called upon to act as a court of appeal, the Court, based

on established case-law, recalled that a case invokes its jurisdiction as long as the Applicant alleges the violation rights that are protected in the African Charter and other instruments to which the Respondent State is a party. The Court further recalled that its jurisdiction involves examining whether the acts of the Respondent State brought to its scrutiny are in line with the international obligations of the Respondent State under the African Charter and other instruments to which the State is a party. , which the Applicant complains of Noting that its jurisdiction involves The Court further

Although other aspects of its jurisdiction were not challenged by the Respondent State, the Court nevertheless examined its personal jurisdiction. The Court found that it had personal jurisdiction since on 29 March 2010, the Respondent State deposited the Declaration provided for under Article 34(6) of the Protocol to the Charter on the Establishment of the African Court on Human and Peoples' Rights (the Protocol) and this Declaration allows individuals to file applications against it as per Article 5(3) of the Protocol. The Court further decided that the Respondent State's withdrawal of the said Declaration on 21 November 2019 did not affect this Application, as the withdrawal will only take effect on 22 November 2020. The Court also held that it has temporal jurisdiction in view of the fact that although the alleged violations commenced in 2004, which is prior to the filing of the Declaration in 2010, they continued thereafter since the Applicant is still serving sentences based on his conviction that he avers constitutes a breach of his right to a fair trial.

With respect to territorial jurisdiction, noting that the facts of the matter occurred within the territory of the Respondent State, which is a state party to the Charter, the Court held that it has jurisdiction.

The Court then ruled on two objections raised by the Respondent State, regarding the admissibility of the Application, that is, on the exhaustion of local remedies and the time within which the application was filed.

On the first objection, the Court noted that the remedies of constitutional petition and review of judgment invoked by the Respondent State are not required to be exhausted within the meaning of Article 56(5) of the Charter because they are extraordinary remedies. Noting further, that the

Court of Appeal had ruled on the issues raised by the Applicant, the Court found that local remedies were exhausted and dismissed the Respondent State's objections on this point.

On the second objection, the Court held that while the remedies were exhausted prior to the date of filing of the Declaration, the time to file the present Application should be computed from the latter date, that is, 29 March 2010. The Court then examined whether the said time of five (5) years, eleven (11) months, and twenty-seven (27) days that elapsed between that date and the filing of the Application is a reasonable time within the meaning of Article 56(6) of the Charter. Based on its case-law, the Court considered that the Applicant only pleaded that he filed the Application in a timely manner using the opportunity he was presented with. The Court also considered the Respondent State's submission that the Applicant cannot plead that his incarceration constituted a justification for the delay given that the prison authorities helped him channel the Application to the Court. Noting that the Applicant did not argue that his incarceration constituted an impediment, and he did not provide justification for the delay, the Court found that the Application was not filed within a reasonable time.

Having recalled that conditions of admissibility are cumulative, the Court found that the Application is inadmissible for not being filed within a reasonable time after exhausting local remedies.

The Court ordered that each Party should bear its costs.

Further Information

Further information about this case, including the full text of the decision of the African Court, may be found on the website at: <https://en.african-court.org/index.php/56-pending-cases-details/906-app-no-010-2016-hamad-mohamed-lyambaka-v-united-republic-of-tanzania-details>

For any other queries, please contact the Registry by email registrar@african-court.org

The African Court on Human and Peoples' Rights is a continental court established by African Union Member States to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and

application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at www.african-court.org .