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27/08/2019
(000271 - 000287) CCT

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AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

THE MATTER OF

MAURIDI SWADI @ MSWEZI KALIJO

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION No. 026/2017

ORDER FOR REOPENING OF PLEADINGS

27 AUGUST 2019

The Court composed of: Sylvain ORÉ, President; Ben KIOKO, Vice-President; Razaâ BEN ACHOUR, Ângelo V. MATUSSE, Suzanne MENGUE, M-Thérèse MUKAMULISA Tujilane R. CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAYA, Stella I. ANUKAM, Judges; and Robert ENO, Registrar.

Pursuant to Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") and Rule 8(2) of the Rules of Court (hereinafter referred to as "the Rules"), Judge Imani D. ABOUD, member of the Court and a national of Tanzania, did not hear the Application.

In the Matter of:

Maulidi Swedi @ Mswezi Kalijo

Self-represented

Versus

UNITED REPUBLIC OF TANZANIA

represented by:

- i. Dr Clement J. MASHAMBA - Solicitor General, Office of the Solicitor General;
- ii. Ms. Sarah MWAIPOPO, Director, Constitutional Affairs and Human Rights, Attorney General's Chambers;
- iii. Mr. Zachariah ELISARIA, Senior State Attorney, Attorney General's Chambers;
- iv. Ms. Nkasori SARAKEYA, Principal State Attorney, Attorney General's Chambers;

- v. Mr. Benedict T. MSUYA, Second Secretary, Legal Officer, Ministry of Foreign Affairs and International Cooperation;
- vi. Mr. Michael LUENA, Principal State Attorney. Attorney General's Chambers;
- vii. Mr. Veritas MLAY, State Attorney, Attorney General's Chambers.

after deliberation,

issues the following Order:

I. THE PARTIES

1. Mr. Maulidi Swedi @ Mswezi Kalijo, (hereinafter referred to as "the Applicant") is a national of Tanzania, who was arrested and convicted for the crime of armed robbery and sentenced to 30 years imprisonment by the District Court of Nzega on the 21 September 2005. He filed an appeal at the Court of Appeal of Tanzania at Tabora (Criminal Appeal No. 186 of 2008), and on 29 March 2011, the Court of Appeal upheld the decision of the District Court. The Applicant is currently serving his sentence at Uyui Central Prison, Tabora.
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 31 August 2017, is based on the Respondent State's alleged violations of the Applicant's rights to fair trial, equality before the law and equal protection by the law, as provided for under Articles 2, 3(1) and (2) and 7 of

the Charter, as well as Articles 13(6) (a) of the Respondent State's Constitution of 1977.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

4. The Application was received at the Registry of the Court on 31 August 2017.
5. The Respondent State filed its Response to the Application on 21 March 2019.
6. After extensions of time granted to the Applicant on 30 April 2019; 30 May 2019 and 8 June 2019, on 17 July 2019, pleadings were closed and the Parties were duly notified.
7. On 7 August 2019, the Applicant filed his Reply to the Respondent State's Response to the Application.

IV. THE COURT:

- i. Orders that the proceedings in *Application No. 026/2017 – Maulidi Swedi @ Mswezi Kalijo v. United Republic of Tanzania* be and are hereby reopened;
- ii. Rules that, in the interests of justice, the Applicant's Reply to the Respondent State's Response the Application be deemed to have been properly filed; and
- iii. Orders the Respondent State to submit his Reply to the Applicant's Response, if any, within thirty (30) days of receipt thereof.

Signed:

Sylvain ORÉ, President;



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and Robert ENO, Registrar.

A handwritten signature in blue ink, appearing to be the initials 'RE' or similar, written over the text 'Registrar.'

Done at Arusha, this Twenty Seventh Day of August in the Year 2019, in English and French, the English text being authoritative.