


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

ANUDO OCHIENG ANUDO

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION No.012/2015

(REPARATIONS)

ORDER

(RE-OPENING OF PLEADINGS)

8 SEPTEMBER 2020



The Court composed of: Sylvain ORÉ, President; Ben KIOKO, Vice-President; Rafaâ BEN ACHOUR, Ângelo V. MATUSSE, M-Thérèse MUKAMULISA, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSOUOLA, 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 9(2) of the Rules of Court (hereinafter referred to as "the Rules"), Judge Imani D. ABOUD, a Tanzanian national, did not hear the Application.

In the matter of

Anudo Ochieng ANUDO

represented by:

Ms. Janemary RUHUNDWA, Dignity Kwanza (an NGO)

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. Baraka LUVANDA, Ambassador, Head, Legal Unit, Ministry of Foreign Affairs, East Africa, Regional and International Cooperation;

- iv. Ms. Nkasori SARAKEYA, Principal State Attorney, Attorney General's Chambers;
- v. Mr. Mark MULWAMBO, Senior State Attorney, Attorney General's Chambers;
- vi. Ms. Aidah KISUMO, Senior State Attorney, Attorney General's Chambers; and
- vii. Ms. Elisha SUKA, Foreign Service Officer, Ministry of Foreign Affairs, East Africa, Regional and International Cooperation.

after deliberation,

issues the following Order:

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 No. 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

5. On 29 March 2018, the Registry of the Court transmitted certified true copies of the Judgment on the merits to the Parties.

6. The Applicant filed submissions on reparations on 1 June 2018 and this was served on the Respondent State on 19 June 2018.

7. The Respondent State filed its Response on 5 December 2019 and this was served on the Applicant on 17 December 2019.

8. 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.
9. Pleadings were closed on 15 July 2020 and the parties were duly notified.

IV. ON THE RE-OPENING OF PLEADINGS

10. 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".
11. The Court notes that this Rule envisages that additional evidence can be admitted only with leave of court and in exceptional circumstances.
12. 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 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.
13. 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

14. For these reasons:

THE COURT

Unanimously,

- i. Orders that, in the interests of justice, pleadings in *Application No. 012/2015, Anudo Ochieng Anudo vs. United Republic of Tanzania* be and are hereby re-opened.
- 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.

Signed:

Sylvain ORÉ, President;

Robert ENO, Registrar.



Done at Arusha, this Eighth Day of September in the year Two Thousand and Twenty, in the English and French, the English text being authoritative.