


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

AMIR RAMADHANI

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION No. 010/2015

JUDGMENT

(REPARATIONS)

25 JUNE 2021



TABLE OF CONTENTS

TABLE OF CONTENTS	i
I. BRIEF BACKGROUND OF THE MATTER	2
II. SUBJECT OF THE APPLICATION	3
III. SUMMARY OF THE PROCEDURE BEFORE THE COURT	3
IV. PRAYERS OF THE PARTIES	4
V. REPARATIONS.....	5
A. Pecuniary reparations.....	6
i. Material loss.....	6
ii. Non-material loss	8
B. Non-pecuniary reparations	10
i. Restitution.....	10
ii. Non-repetition of the violations and report on implementation.....	11
iii. Publication of the decision	13
VI. COSTS	14
A. Legal fees related to proceedings before this Court	14
B. Other expenses related to proceedings before this Court	15
VII. OPERATIVE PART	16

The Court composed of: Blaise TCHIKAYA, Vice-President; Ben KIOKO, Razaâ BEN ACHOUR, Suzanne MENGUE, M-Thérèse MUKAMULISA, Tujilane R. CHIZUMILA, Chafika BENSOUOLA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Modibo SACKO – Judges; and Robert ENO, Registrar.

In accordance with 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)¹ of the Rules of Court (hereinafter referred to as "the Rules"), Justice Imani D. ABOUD, President of the Court and a national of Tanzania did not hear the Application.

In the Matter of:

Amir RAMADHANI

Represented by Advocate Donald Omondi Deya, Chief Executive Officer, Pan African Lawyers Union (PALU)

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

- i. Mr Gabriel Paschal MALATA, Solicitor General, Office of the Solicitor General;
- ii. Ms Sarah MWAIPOPO, Director, Division of Constitutional Affairs and Human Rights, and Principal State Attorney, Attorney General's Chambers;
- iii. Amb Baraka LUVANDA, Head of Legal Division, Ministry of Foreign Affairs, East Africa, Regional and International Cooperation;
- iv. Ms Nkasori SARAKEYA, Assistant Director, Human Rights, and Principal State Attorney, Attorney General's Chambers;
- v. Mr Musa MBURU, Principal State Attorney, Director, Civil Litigation;

¹ Formerly Rule 8(2) of the Rules of 2 June 2010.

- vi. Mr Abubakar MRISHA, Senior State Attorney, Attorney General's Chambers;
- vii. Mr Elisha E. SUKA, Foreign Service Officer, Ministry of Foreign Affairs, East Africa, Regional and International Cooperation.

after deliberation,

Renders the following Judgment:

I. BRIEF BACKGROUND OF THE MATTER

1. In his Application filed on 11 May 2015, Mr Amir Ramadhani (hereinafter referred to as "the Applicant") alleged that his rights to a fair trial, including the right to free legal assistance, had been violated by the United Republic of Tanzania (hereinafter referred to as "the Respondent State") in the course of domestic proceedings.²
2. On 11 May 2018, the Court rendered its Judgment on the merits whose paragraphs 5 to 11 of the operative part read as follows:

On the merits:

- v. *Finds* that the alleged violation of Article 7 relating to irregularities in the Charge Sheet has not been established;
- vi. *Finds* that the Respondent State has not violated Article 7(1)(b) of the Charter as regards the Applicant's allegation on procedural error in respect of the statement of PW 1;
- vii. *Finds* that the Respondent State has not violated Article 7(2) of the Charter as regards the applicability of the sentence at the time the robbery was committed;
- viii. *Finds however, that* the Respondent State has violated Article 7(1)(c) of the Charter as regards the failure to provide the Applicant with free legal assistance

² See *Amir Ramadhani v. United Republic of Tanzania* (merits) (11 May 2018) 2 AfCLR 344, § 1.

during the judicial proceedings; and *consequently, finds* that the Respondent State has also violated Article 1 of the Charter;

- ix. *Does not grant* the Applicant's prayer for the Court to quash his conviction and sentence;
- x. *Does not grant* the Applicant's prayer for the Court to directly order his release from prison, without prejudice to the Respondent State applying such a measure *proprio motu*;
- xi. *Reserves* its decision on the Applicant's prayer on other forms of reparation;
- xii. *Decides* that each Party bear its own costs;
- xiii. Allows the Applicant, in accordance with Rule 63 of its Rules, to file his written submissions on the other forms of reparation within thirty (30) days from the date of notification of this Judgment; and the Respondent State to file its Response within thirty (30) days from the date of receipt of the Applicants' written submissions.

3. It is this Judgment on the merits that serves as the basis for the present Application for reparations.

II. SUBJECT OF THE APPLICATION

4. On 30 July 2018, the Applicant filed his written submission on reparations following the judgment on the merits rendered by this Court on 11 May 2018. In the said Judgment, the Court unanimously found that the Respondent State violated the Applicant's right to be provided with free legal assistance protected under Article 7(1)(c) of the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter").

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

5. On 14 May 2018, the Registry transmitted a certified true copy of the Judgment on the merits to the Parties and requested them to file their submissions on reparations.

6. The Parties filed the requested submissions within the time stipulated by the Court.

7. Pleadings were closed on 16 April 2020 and the Parties were duly notified.

IV. PRAYERS OF THE PARTIES

8. The Applicant prays the Court to grant monetary reparations as follows:

- i. US Dollar Twenty Thousand (US\$ 20,000) to the Applicant as a direct victim for moral damage;
- ii. US Dollar Fifteen Thousand (US\$ 15,000) to the Applicant's wife and mother of his two children, Mariamu Ramadhani Juma, as an indirect victim for the moral prejudice suffered;
- iii. US Dollar Two Thousand (US\$ 2,000) to the Applicant's brother, Mr Hussein Ramadhani, as an indirect victim for the moral prejudice suffered;
- iv. US Dollar Two Thousand (US\$ 2,000) to the Applicant's brother, Mr Issa Ramadhani, as an indirect victim for the moral prejudice suffered;
- v. US Dollar Two Thousand (US\$ 2,000) to the Applicant's sister, Ms Asia Ramadhani, as an indirect victim for the moral prejudice suffered;
- vi. US Dollar Two Thousand (US\$ 2,000) to the Applicant's wife, Mariamu Ramadhani Juma, for the material prejudice suffered as a wife;
- vii. US Dollar Twenty Thousand (US\$ 20,000) to the Applicant for legal fees; and
- viii. US Dollar One Thousand and Six Hundred (US\$ 1,600) for expenses incurred.

9. The Applicant further prays the Court to order the Respondent State to:

- i. Guarantee non-repetition of the violations;
- ii. Report to the Court every six (6) months until they satisfy the orders on reparations; and
- iii. Publish in the national gazette the Judgment on the merits within one month of delivery of the present Judgment as a measure of satisfaction.

10. The Respondent State prays the Court to order that:

- i. The Judgment of the Court on the merits of the matter is sufficient reparation;
- ii. The Applicant's claim for reparations is dismissed in its entirety with costs; and
- iii. The Respondent State is granted any other relief the Court may deem fit.

V. REPARATIONS

11. Article 27(1) of the Protocol provides that

If the Court finds that there has been violation of a human or peoples' rights it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.

12. In line with its earlier judgments, the Court considers that for reparation claims to be granted, the Respondent State should be internationally responsible, causation must be established and where it is granted, reparation should cover the full damage suffered. Furthermore, the Applicant bears the onus to justify the claims made³ save for moral prejudice for which the Court exercises judicial discretion in equity.⁴ In such circumstances, the Court awards lump sums.⁵

13. The Court restates that measures, which it may order pursuant to Article 27(1) of the Protocol include restitution, compensation, rehabilitation of the victim, satisfaction and any other measures that are aimed at ensuring non-repetition of the established violations in light of the circumstances of each case.⁶

³ See *Norbert Zongo and Others v. Burkina Faso* (reparations) (5 June 2015) 1 AfCLR 258, §§ 20-31; *Lohé Issa Konaté v. Burkina Faso* (reparations) (3 June 2016) 1 AfCLR 346, §§ 52-59; *Reverend Christopher R. Mtikila v. United Republic of Tanzania* (reparations) (13 June 2014) 1 AfCLR 72, §§ 27-29.

⁴ *Lohé Issa Konaté v. Burkina Faso* (reparations), § 58; *Nguza Viking and Johnson Nguza v. United Republic of Tanzania*, ACtHPR, Application No. 006/2015, Judgment of 8 May 2020 (reparations), § 15.

⁵ See *Norbert Zongo and Others v. Burkina Faso* (reparations), § 62; *Wilfred Onyango Nganyi and Others v. United Republic of Tanzania*, Application No. 006/2013, Judgment of 4 July 2019 (reparations), § 73.

⁶ See *Mohamed Abubakari v. United Republic of Tanzania*, ACtHPR, Application No. 007/2013, Judgment of 4 July 2019 (reparations), § 21; *Ingabire Victoire Umuhoza v. Republic of Rwanda* (reparations) (7 December 2018) 2 AfCLR 202, § 20; *Nguza Viking and Johnson Nguza v. Tanzania* (reparations), § 14.

14. The Court further restates, as per its case-law, that damages should be awarded, where possible, in the currency in which loss was incurred.⁷ In the instant case, while the Applicant makes his claims in United States Dollars, damages will be awarded in Tanzanian Shillings as all potential awardees reside on the territory of the Respondent State and the single prejudice forming the basis of all the claims occurred in the same country.

15. The Court notes that responsibility of the Respondent State and causation have been established in the Judgment on the merits where it found a violation of the Applicant's right to legal assistance guaranteed under Article 7(1)(c) of the Charter. The Court will therefore, against this finding, examine the Applicant's claims in respect to other forms of reparation.

A. Pecuniary reparations

i. Material loss

16. The Applicant claims compensation for loss of income due to the fact that his business collapsed after he was imprisoned. He also seeks reparation for disruption of his life plan and costs incurred in the proceedings before domestic courts. The Applicant's prayers for reparation further include monetary compensation for material loss suffered by his wife.

17. The Respondent State submits that the Applicant has failed to adduce evidence in support of these claims but also did not succeed in centering the claims around the established violation of failure to provide legal assistance. The Respondent State prays the Court to dismiss the present request.

18. The Court will consider the Applicant's claims first, with respect to the loss of income and life plan, and secondly, with regard to the costs of proceedings before domestic courts.

⁷ See *Ingabire Victoire Umuhoza v. Rwanda* (reparations), § 45.

a. Loss of income and life plan

19. The Court restates that, with regard to material prejudice, there must be a link between the established violation and the loss alleged.⁸ Material damage is therefore not warranted in circumstances where an established violation of the right to free legal assistance did not affect the trial, conviction and sentencing of the Applicant.⁹

20. In the instant case, the Applicant does not prove how the Respondent State's failure to grant him legal assistance during the proceedings before domestic courts has caused him loss of income, affected his life plan and caused material prejudice to his wife. As the records show, prejudice caused by the lack of legal assistance did not indeed impact the proceedings before the High Court and Court of Appeal given that the Applicant avers having actually availed himself representation by recourse to the services of a lawyer.¹⁰ Furthermore, this Court did not find that the conviction and sentencing of the Applicant were as a result of the lack of legal representation and that domestic courts did not uphold any of the fair trial standards guaranteed in the Charter.

21. As a consequence of the foregoing, the Court dismisses this prayer.

b. Costs of proceedings before domestic courts

22. The Applicant prays the Court to grant him compensation to the tune of United States Dollars Four Thousand (US\$ 4,000) for costs incurred in domestic proceedings where he was represented by a lawyer before the High Court and Court of Appeal.

⁸ *Armand Guehi v. Republic of Côte d'Ivoire* (merits and reparations) (7 December 2018) 2 AfCLR 477, §§ 178, 186; *Nguza Viking and Johson Nguza v. Tanzania* (reparations), §§ 26-28.

⁹ See *Minani Evarist v. United Republic of Tanzania* (merits) (21 September 2018) 2 AfCLR 402, § 84; *Anaclet Paulo v. United Republic of Tanzania* (merits) (21 September 2018) 2 AfCLR 446, § 106.

¹⁰ Applicant's Written Submissions for Reparations, § 49.

23. The Respondent State submits that the domestic courts did not order any cost during the Applicant's trial and appeal, and that the Applicant does not provide evidence for such cost.

* * *

24. The Court reiterates that costs and other expenses incurred in domestic proceedings may warrant monetary compensation¹¹ although the Applicant bears the onus to provide documents in support of the claims made.¹²

25. The Court notes that the Applicant does not provide evidence for the claim relating to costs incurred in the proceedings before the High Court and the Court of Appeal of the Respondent State. The Court considers that, while it had found a violation of the right to legal assistance, such finding did not impact on the conviction and sentencing of the Applicant in domestic proceedings. The said violation cannot therefore be said to exonerate the Applicant from supplying evidence on costs allegedly incurred as a result of the said proceedings. The claim is thus rejected.

ii. Non-material loss

26. The Applicant prays the Court to grant him compensation for moral prejudice as the lack of legal assistance caused him stress during his proceedings and imprisonment. He further avers that he suffered physical and emotional distress following his imprisonment as he could not take care of his family members and lost his social status and job.

27. The Applicant also seeks compensation for moral damage suffered by his family members as they were emotionally distressed by his imprisonment given that he played a main role in providing for them.

¹¹ See *Armand Guehi v. Tanzania* (merits and reparations), § 188; and *Norbert Zongo and Others v. Burkina Faso* (reparations), § 79.

¹² See *Reverend Christopher R. Mtikila v. Tanzania* (reparations), § 39; *Nguza Viking and Johnson Nguza v. Tanzania* (reparations), § 31.

28. The Respondent State prays the Court to reject all claims for reparation on account of non-material loss as the Applicant has failed to justify them.

* * *

29. The Court reiterates that, as an established rule, moral damage is one that causes suffering and afflictions to the victim but also emotional distress to the family members as well as non-material changes in their living conditions.¹³ In making a determination on claims relating to non-material loss, the relevant enquiry is therefore whether the violation found by this Court has caused or is likely to have caused the above described state of being.

30. With respect to the Applicant, the Court restates that in instances where the established violation of the right to legal assistance did not affect the outcome of domestic proceedings, non-material prejudice ensues which can be fairly compensated by a token amount.¹⁴ The Court has adopted the consistent standard of awarding Tanzanian Shillings Three Hundred Thousand (TZS 300,000).¹⁵

31. The Court, based on its earlier findings and the circumstances of the present case, awards the Applicant Tanzanian Shillings Three Hundred Thousand (TZS 300,000) for the moral prejudice suffered due to the Respondent State's failure to grant him legal assistance.

¹³ See *Reverend Christopher R. Mtikila v. Tanzania* (reparations), § 34; *Nguza Viking and Johnson Nguza v. Tanzania* (reparations), § 38.

¹⁴ See *Minani Evarist v. Tanzania* (merits), §§ 84-85; *Anaclet Paulo v. Tanzania* (merits), §§ 106-107; *Jibu Amir and Saidi Ally v. United Republic of Tanzania*, ACtHPR, Application No. 014/2015, Judgment of 28 November 2019, §§ 94-95; *Kalebi Elisamehe v. United Republic of Tanzania*, ACtHPR, Application No. 028/2015, Judgment of 26 June 2020, § 108.

¹⁵ *Minani Evarist v. Tanzania* (merits), § 85; *Anaclet Paulo v. Tanzania* (merits), §§ 106-107; *Kalebi Elisamehe v. Tanzania*, as above; *Jibu Amir and Saidi Ally v. Tanzania*, *op. cit.*, § 95.

32. Regarding the indirect victims, the Court considers that, as a general rule, their claims for reparation are determined by their link to the Applicant.¹⁶ As such, the extent of moral harm that may be claimed by the indirect victims cannot in principle supersede the main damage caused to the victim, which is the Applicant.¹⁷

33. The Court observes that in the instant matter, only the failure to provide the Applicant with legal assistance was retained as the main prejudice from which the indirect victims can draw damage. The Court notes that the Applicant does not justify the said claims by the lack of legal assistance but rather by his imprisonment, which this Court did not find was in breach of any of his rights.

34. As a consequence of the foregoing, the Court finds that reparation is not warranted and dismisses the claims.

B. Non-pecuniary reparations

i. Restitution

35. The Applicant prays this Court to “restore him to his previous situation before his imprisonment occurred” even though he is aware that he cannot be set free before serving his thirty (30) years sentence.¹⁸

36. The Respondent State prays the Court to dismiss this prayer as the reparation sought is irrelevant and inapplicable in the instant case given that the Applicant was duly tried based on good evidence by a competent court and his appeal was heard and conclusively determined.

¹⁶ See *Ally Rajabu and Others v. United Republic of Tanzania*, ACtHPR, Application No. 007/2015, Judgment of 28 November 2019, §§ 152-153; *Ingabire Victoire Umuhoza v. Rwanda* (reparations), §§ 66-73.

¹⁷ See *Mohamed Abubakari v. Tanzania* (reparations), §§ 47, 59, 62; *Alex Thomas v. United Republic of Tanzania*, ACtHPR, Application No. 005/2013, Judgment of 4 July 2019 (reparations), §§ 42, 57, 60; and *Wilfred Onyango Nganyi and Others v. Tanzania* (reparations), § 73.

¹⁸ Applicant’s submissions on reparation, § 55.

37. The Court restates that the purpose of an order for restitution is to achieve the *status quo ante* that is reinstate the Applicant in the situation prior to the violation.¹⁹ In the circumstances, measures contemplated are those such as expunging the Applicant's conviction from the records, setting aside fines meted against him, or returning his property.²⁰

38. The Court notes that in the present case, only the failure to grant legal assistance was established and remedy duly afforded. Considering that this Court did not find any other violation which caused prejudice that would warrant returning the Applicant in his initial situation, the claim for restitution is not justified.

39. The prayer is therefore dismissed.

ii. Non-repetition of the violations and report on implementation

40. The Applicant prays the Court to order that the Respondent State guarantees non-repetition of the violations against him and reports back every six (6) months until the orders made by this Court on reparation are implemented.

41. The Respondent State contends that the prayer for guarantee of non-repetition is redundant given that provision has already been made for all its citizens to be afforded free legal services.

¹⁹ *Lohé Issa Konaté v. Burkina Faso* (reparations), § 58; *Lucien Ikili Rashidi v. United Republic of Tanzania*, ACtHPR, Application No. 009/2015, Judgment of 29 March 2019 (merits and reparations), § 142.

²⁰ See *Lohé Issa Konaté v. Burkina Faso* (reparations), §§ 19-23; *Lucien Ikili Rashidi v. Tanzania*, *op.cit.*, § 142.

42. The Court observes that while non-repetition may apply to both systemic and individual cases,²¹ its purpose in the latter instances is to prevent the violation from continuing or recurring.²²
43. As the Court earlier found, the violation of the right to legal assistance was completed as at the time of the domestic proceedings. The likelihood of continuation or repetition is therefore non-existent in respect of the Applicant as far as the present matter is concerned. An order for non-repetition is consequently not warranted in respect of the Applicant.
44. The Court is however cognisant of the prospect of systemic violations given that other users of the Respondent State's justice system may suffer the same violation. In this regard, it is worth noting that the Respondent State has in 2017 – that is the year preceding the Judgment on the merits in the present matter – enacted a Legal Aid Act under which assistance is provided to persons facing criminal proceedings.²³ The Court considers that the enactment of the Legal Aid Act has rendered redundant any subsequent order on provision of legal assistance to users of the Respondent State's justice system save for an effective implementation of the Act. An order for non-repetition aimed at preventing systemic situations will therefore be relevant only when the Court examines future requests for reparation involving implementation of the Act.
45. As a consequence, the Court does not make any order on non-repetition.
46. Regarding the report on implementation, the Court restates that related orders have become inherent in its processes as prescribed under Article 30 of the Protocol.²⁴

²¹ *Armand Guehi v. Tanzania* (merits and reparations), § 191. See also *Norbert Zongo and Others v. Burkina Faso* (reparations), §§ 103-106.

²² *Armand Guehi v. Tanzania*, as above; and *Reverend Christopher R. Mtikila v. Tanzania* (reparations), § 43.

²³ Legal Aid Act, 2017.

²⁴ See *Wilfred Onyango Nganyi v. Tanzania* (reparations), § 83; *Nguza Viking and Johnson Nguza v. Tanzania* (reparations) § 52; *Kalebi Elisamehe v. Tanzania*, *op. cit.*, § 117(xvi).

iii. Publication of the decision

47. The Applicant prays the Court to order the Respondent State to publish in the national Gazette, within one month of delivery, the Judgment on the merits as a measure of satisfaction.

48. The Respondent State requests the Court to dismiss the prayer on publication since its decisions are published on its website and freely available.

49. The Court recalls that, as per its case-law, its judgment can in itself constitute sufficient reparation for any given violation especially when it comes to moral damage. Orders such as publication of a decision are therefore made on a case-by-case basis as the circumstances warrant.²⁵ Such circumstances would include cases of grave or systemic violations that affect the domestic system of the Respondent State; where the Respondent State has not implemented a previous order of this Court in relation to the same case; or where there is need to enhance public awareness of the findings in the case.²⁶

50. The Court notes that, as earlier recalled, the present matter involves only the failure to provide legal assistance towards which the Respondent State had acted by adopting a Legal Aid Act in 2017, that is after the filing of the Application but prior to the Judgment on the merits. It must further be noted that this Court has, in other applications, issued several judgments related to the provision of legal aid which it has ordered the Respondent State to publish.²⁷ Given that the present case does not involve a systemic violation and

²⁵ *Reverend Christopher R. Mtikila v. Tanzania* (reparations), § 45; *Ally Rajabu and Others v. Tanzania* (merits and reparations), §§ 151-153; *Andrew Ambrose Cheusi v. United Republic of Tanzania*, ACtHPR, Application No. 004/2015, Judgment of 26 June 2020, §§ 173-174.

²⁶ *Armand Guehi v. Tanzania* (merits and reparations), § 191. See also *Reverend Christopher R. Mtikila v. Tanzania* (reparations), § 45; and *Norbert Zongo and Others v. Burkina Faso* (reparations), §§ 103-106.

²⁷ *Andrew Ambrose Cheusi v. Tanzania*, *op. cit.*, §§ 174, 184; *Kijiji Isiaga v. United Republic of Tanzania* (merits) (21 March 2018) 2 AfCLR 218, § 102(ix); *Christopher Jonas v. United Republic of Tanzania* (merits)

the Judgment on the merits did not include a specific measure to be implemented by the Respondent State, this Court does not find it necessary to order publication of any of its judgments in the instant matter.

51. The prayer is therefore dismissed.

VI. COSTS

52. In terms of Rule 30 of the Rules “unless otherwise decided by the Court, each party shall bear its own costs.”

53. The Court recalls that, in line with its earlier judgments, reparation may include payment of legal fees and other expenses incurred in the course of international proceedings.²⁸ The onus is on the Applicant to provide justification for the amounts claimed.²⁹

A. Legal fees related to proceedings before this Court

54. The Applicant prays the Court to order the payment of the following being the legal fees incurred in the proceedings before the African Court:

- i. Legal aid fees: 200 hours for two Assistant counsel at US Dollars Fifty (US\$ 50) an hour amounting to US Dollars Ten Thousand (US\$ 10,000); and
- ii. Legal aid fees: 100 hours for the lead counsel at US Dollars One Hundred (US\$ 100) an hour amounting to US Dollars Ten Thousand (US\$ 10,000).

(28 September 2017) 2 AfCLR 101; and *Wilfred Onyango Nganyi and Others v. Tanzania* (reparations), § 97(viii).

²⁸ See *Norbert Zongo and Others v. Burkina Faso* (reparations), §§ 79-93; and *Reverend Christopher R. Mtikila v. Tanzania* (Reparations), § 39; *Armand Guehi v. Tanzania* (merits and reparations), § 188; *Andrew Ambrose Cheusi v. Tanzania, op. cit.*, § 176.

²⁹ *Norbert Zongo and Others v. Burkina Faso* (reparations), § 81, and *Reverend R. Mtikila v. Tanzania* (reparations), § 40; *Wilfred Onyango Nganyi and Others v. Tanzania* (reparations), § 89.

55. The Respondent State prays the Court to dismiss this prayer as unfounded and baseless given that the Applicant does not provide supporting evidence and the costs of representation were covered under the Court's legal aid scheme.

56. The Court notes that the Applicant was duly represented by PALU throughout the proceedings under the Court's legal aid scheme.³⁰ Noting further that its legal aid scheme is *pro bono* in nature, the Court rejects the claim.

B. Other expenses related to proceedings before this Court

57. The Applicant prays the Court to order the reimbursement of costs incurred in the proceedings before this Court as follows:

- i. Postage: US Dollars Two Hundred (US\$ 200);
- ii. Printing and photocopying: US Dollars Two Hundred (US\$ 200);
- iii. Transportation from the seat of the Court and the PALU Secretariat to the Ukonga prison: US Dollars One Thousand (US\$ 1,000); and
- iv. Communication: US Dollars Two Hundred (US\$ 200).

58. The Respondent State submits that the prayer should be denied since the Applicant was provided legal aid by this Court. The Respondent State also avers that the prayers related to other costs are an afterthought and misconceived since they were not made in the Application.

³⁰ See African Court on Human and Peoples' Rights Legal Aid Policy 2013-2014, Legal Aid Policy 2015-2016, and Legal Aid Policy from 2017.

59. The Court notes that, in the proceedings before it, the Applicant was represented by PALU under the legal aid scheme. Consequently, the considerations relied on in examining the claim for payment of legal fees before this Court apply to the present claim. The claim is therefore dismissed.

60. As a consequence of the above, the Court decides that each Party shall bear its own costs.

VII. OPERATIVE PART

61. For these reasons:

THE COURT,

Unanimously:

Pecuniary reparations

- i. *Does not grant* the prayer for material damages sought on account of loss of income, life plan, and costs incurred in the proceedings before domestic courts;
- ii. *Grants* the prayer for damages in relation to the failure to be afforded free legal assistance, and awards the Applicant the sum of Tanzanian Shillings Three Hundred Thousand (TZS 300,000); and
- iii. *Orders* the Respondent State to pay the amount indicated under subparagraphs (ii) free from taxes within six (6) months, effective from the notification of this Judgment, failing which it will pay interest on arrears calculated on the basis of the applicable rate of the Central Bank of Tanzania throughout the period of delayed payment and until the accrued amount is fully paid.

Non-pecuniary reparations

- iv. *Dismisses* the prayers for restitution, non-repetition and publication;

- v. *Dismisses* the prayers for reimbursement of legal fees.

On implementation and reporting

- vi. *Orders* the Respondent State to submit to the Court, within six (6) months from the date of notification of this Judgment, a report on the measures taken to implement the orders set forth herein and thereafter, every six (6) months until the Court considers that there has been full implementation thereof.

On costs

- vii. *Dismisses* the prayer related to payment of the costs and other expenses incurred in the proceedings before this Court;
- viii. *Orders* each party to bear its own costs.

Signed:

Blaise TCHIKAYA, Vice-President;

Ben KIOKO, Judge;

Rafaâ BEN ACHOUR, Judge;


Suzanne MENGUE, Judge;

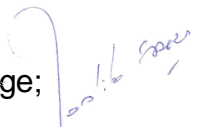
M.-Thérèse MUKAMULISA, Judge;


Tujilane R. CHIZUMILA, Judge;

Chafika BENSAOULA, Judge;

Stella I. ANUKAM, Judge;

Dumisa B. NTSEBEZA, Judge: 

Mobido SACKO, Judge; 

and Robert ENO, Registrar. 

Done at Arusha, this Twenty Fifth Day of June, in the year Two Thousand and Twenty-One, in English and French, the English text being authoritative.

