



AfCHPR

African Court on Human
and Peoples' Rights

Arusha, Tanzania

Website: www.african-court.org

Telephone: +255-272-510-510

JUDGMENT SUMMARY

MASUDI SAID SELEMANI

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 042/2019

JUDGMENT ON MERITS AND REPARATION

5 JUNE 2026

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

Arusha, 5 June 2026: The African Court on Human and Peoples' Rights (the Court) today delivered a Judgment in the case of *Masudi Said Selemani v. United Republic of Tanzania*.

Masudi Selemani (the Applicant) is a national of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, he was incarcerated at Lilungu Central Prison in the Mtwara Region, having been convicted of murder and sentenced to death, by hanging. The Applicant alleged that the Respondent State violated his right to life, right to inherent dignity, right to be represented by counsel of his choice, right to be tried within a reasonable time and the right to be heard protected under Articles 4, 5, 7(1)(c), 7(1)(d) and 7(1) of the African Charter on Human and Peoples' Rights (the Charter) respectively with regards to the proceedings at the national court.

The Court observed that, pursuant to Rule 63(1) of the Rules of Court (the Rules), it is empowered to deliver a judgment in default, either upon request by the Applicant or on its own accord, provided the conditions contained in Rule 63(1) of the Rules were met. In this case, the judgment in default was issued on the Court's own accord, as the Court was satisfied that the Respondent State had been duly served all the



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documents pertaining to the proceedings; and that the Respondent State had defaulted by failing to file its Response.

In accordance with Article 3 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol), the Court observed that, it was obligated to preliminarily, determine whether it had jurisdiction to hear the Application. In this regard, 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 which allows individuals to file applications against the Respondent State as per Article 5(3) of the Protocol. The Court underscored that the Respondent State's withdrawal of the said Declaration on 21 November 2019 did not affect this Application, as the withdrawal took effect on 22 November 2020, which is after the Application had been filed at the Court, on 19 August 2019.

The Court held that it had material jurisdiction because the Applicant had alleged violations of his rights, protected under Articles 4, 5, 7(1)(c), 7(1)(d) and 7(1) of the Charter. Furthermore, the Court held that it had temporal jurisdiction as the alleged violations occurred after the Respondent State had become a party to the Protocol. Lastly, it found that it had territorial jurisdiction, given that the facts of the matter occurred within the territory of the Respondent State.

The Court observed that pursuant to Article 6(2) of the Protocol, the content of which is restated in Rule 50(1) of the Rules, it must rule on the admissibility of the cases brought before it. Consequently, the Court held that, pursuant to Article 50(2) of the Rules, the Application had met the following conditions of admissibility. The Applicant had been identified by name in fulfilment of Rule 50(2)(a) of the Rules. It also held that the allegations by the Applicant sought to protect his rights in line with Article 3(h) of the objectives of the Constitutive Act of the African Union, and thus the Application complied with Rule 50(2)(b) of the Rules. Furthermore, the Court found that the language used in the Application was not disparaging or insulting to the Respondent



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State or its institutions, in fulfilment of Rule 50(2)(c) of the Rules. The Application was, also not based exclusively on news disseminated through mass media, in fulfilment of Rule 50(2)(d) of the Rules.

As regards exhaustion of local remedies, the Court found that the Applicant had appealed, to the Court of Appeal, the highest judicial organ of the Respondent State, the decision of the High Court convicting him of murder. The Court of Appeal delivered its judgment on 22 November 2014, dismissing the Applicant's appeal. Accordingly, the Applicant had, therefore, exhausted local remedies in compliance with Rule 50(2)(e) of the Rules. The Court further held that the Application which was filed four years, eight months and eight days after the Court of Appeal rendered its decision on 22 November 2014, was filed within a reasonable time in accordance with Rule 50(2)(f) of the Rules. This is because the Applicant was incarcerated and secluded from general population, limited in movement and with limited access to information. The Court was also satisfied that the Application did not raise allegations already settled before another international tribunal. Resultantly, the Court declared the Application admissible.

On the merits of the case, the Court considered whether the Respondent State had violated the Applicant's rights under 4, 5, 7(1)(c), 7(1)(d) and 7(1), by its conduct in the assessment of evidence and the sentencing of the Applicant to death.

The Applicant submitted that his conviction infringed his right to life under Article 4 of the Charter, arguing that the prosecution evidence was insufficient and that he lacked the requisite intent to commit murder. The Court recalled that Article 4 prohibits the arbitrary deprivation of life, which requires assessing whether a sentence is lawful and imposed by a competent court in accordance with due process. The Applicant's claims related solely to due process. In this regard, the Court reiterated that it does not re-evaluate evidence already examined by national courts. Upon review of the record, it found no manifest error in the assessment of witness testimony or in the Applicant's conviction that would support a finding that the Applicant's rights were violated as



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alleged. However, the Court held that the imposition of a mandatory death sentence, without the possibility of judicial discretion, violates due process. Consequently, it constitutes an arbitrary deprivation of life and a breach of Article 4 of the Charter.

The Applicant further contended that the imposition of the death sentence by hanging, together with his prolonged detention on death row, subjected him to dehumanising conditions of near hopelessness, in violation of his right to inherent dignity. The Court held that both the extended period spent on death row and the method of execution by hanging constitute an encroachment upon human dignity.

With regard to the alleged violation of the right to be represented by counsel of his choice, the Court found no evidence that the Respondent State hindered counsel's access to the Applicant, restricted consultation, or denied adequate time and facilities for the preparation of the defence. Therefore, the Court held that the Applicant's right to be represented by counsel of his choice had not been violated.

The Court held that the period of two years and seven months between the Applicant's arrest and the commencement of trial was not unreasonable. It noted that pre-trial processes including investigations, the recording of witness statements, and submission of the case file to the Directorate of Public Prosecutions, are necessary and inherently time-consuming. The Court further observed that the duration of such processes may vary depending on the workload and scheduling of the relevant judicial authorities.

On the allegation that the Applicant did not benefit from the assistance of an interpreter and that he was allowed to call witnesses in his defence, The Court held that the Applicant was represented by counsel and did not request the assistance of an interpreter at any stage of the proceedings. It further noted that the Applicant actively challenged aspects of the prosecution's evidence, demonstrating his ability to follow the trial. The Court also held, on the basis of the record, that the Applicant was afforded the opportunity to present his defence, including calling witnesses, though he chose



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to testify alone. In the circumstances, the Court found that the Applicant's right to a fair trial was not violated.

As regards pecuniary reparations, the Court dismissed the claim for material damages for lack of a causal link between the material prejudice allegedly suffered and the violation of his rights to life, and dignity under Articles 4, and 5 of the Charter supporting evidence. Exercising its discretion, it awarded TZS 300,000 in moral damages to the Applicant. The claim for moral damages on behalf of beneficiaries was also rejected for failure to establish filiation between them and the Applicant.

On non-pecuniary reparations, the Court dismissed the Applicant's prayer for release from death row, for failure to demonstrate special and compelling circumstances. The Court further dismissed the Applicant's prayer for retrial in respect of his conviction on the basis that the Court's finding of violations of the Charter did not impact on his conviction. In addition, the Court rejected the prayer for conversion of the Applicant's sentence to life imprisonment on the basis that it is not an appellate jurisdiction and it does not rehear cases determined by national courts.

Having found violations of Articles 4 and 5 of the Charter based on the mandatory imposition of the death sentence, by hanging in order to remedy these violations, the Court ordered the Respondent State to take all necessary measures, without delay, to remove the provision of the mandatory death sentence and hanging as a method of execution of the death sentence from its laws. Furthermore, the Court ordered the Respondent State to vacate the sentence, remove the Applicant from death-row and rehear his case on sentencing through a procedure that allows judicial discretion. In addition, the Court ordered the Respondent State to publish the judgment on the websites of the Judiciary, and the Ministry for Constitutional and Legal Affairs within a period of three months from the date of notification and ensure that the judgments remain accessible for at least a year from the date of publication.

Each Party was ordered to bear its own costs.



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Pursuant to Article 28(7) of the Protocol and Rule 70(3) of the Rules, Justice Blaise Tchikaya, Justice Rafaâ Ben Achour and Justice Dumisa B. Ntsebeza issued Declarations on the issue of the death penalty.

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://www.african-court.org/cpmt/details-case/042/2019>

For any other queries, please contact the Registry via the following email address: 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.