

Application No. 009/2011

Tanganyika Law Society & Legal and Human Rights Centre

v. The United Republic of Tanzania

Summary of facts

1. The Applicants submit that the Respondent State is in violation of Article 2 and 13(1) of the African Charter on Human and Peoples' Rights, and articles 3 and 25 of the International Covenant on Civil and Political Rights (ICCPR), a violation that was institutionalized in 1992, at the onset of multiparty politics in the country.
2. According to the Applicants, in 1992, the National Assembly passed the Eighth Amendment to the Constitution and prescribed a requirement for membership to and sponsorship by a political party for all persons running for Presidential, Parliamentary and Local Government elections. They submit further that in 1993, a certain Reverend Mtikila challenged the 8th constitutional amendment, and on 16th October 1994, the Respondent tabled a bill, the 11th Constitutional Amendment, seeking to nullify the right of independent candidates to contest Presidential, Parliamentary and Local Government elections.
3. According to the Applicants, on 24 October 1994, the High Court found in favour of Reverend Mtikila, and declared that it was lawful for independent candidates to contest elections. On 2 December 1994, the National Assembly passed the Eleventh Constitutional Amendment, whose effect was to the position of the 8th amendment, thus reversing the High Court decision of 24 October 1994.
4. In 2005, Reverend Mtikila again challenged the Eleventh Amendment, and in May 2006, the High Court again ruled in his favour, stating that the impugned amendments were violative of the democratic values and principles enshrined in the Constitution.

5. In 2009, the Respondent appealed the decision of the High Court to the Court of Appeal, (the highest Court in the country), and in June 2010, the Court of Appeal, reversed the decision of the High Court.
6. The Applicants note that the effect of the violation is that a great majority of Tanzanians who do not belong to political parties have been discriminated against and denied the opportunity to take part in public affairs or from being elected.
7. They state that all domestic remedies have been exhausted and the violation is continuing.

Procedure

8. The application was received at the Registry on 2 June 2011 and was registered the same day.
9. By letter dated 17 June 2011, the Registry wrote to the African Commission to inquire whether the applicants have observer status before the Commission.
10. By letter dated 15 July 2011, the Secretariat of the African Commission confirmed that the applicants have observer status before the Commission.
11. By Note verbale of 18 July 2011, the application was sent to the Respondent, and by letter of the same date the AUC and other State Parties to the Protocol were informed of the application.
12. By Note Verbale dated 19 August, 2011, the Respondent State communicated the names and addresses of its representatives to the Registry.
13. By note verbale dated 19 August, 2011, the Registry acknowledged receipt of the Respondent's Note Verbale communicating the names and addresses of its representatives.

For further information, please contact:

The Registrar

African Court on Human and Peoples' Rights

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Date: 24th August 2011

2011

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