

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

IN THE MATTER OF

KARATA ERNEST AND OTHERS

V.

THE UNITED REPUBLIC OF TANZANIA

APPLICATION No. 001/2012

ORDER

The Court comprising: Sophia A.B. AKUFFO, President; Bernard M. NGOEPE, Vice-President; Gerard NIYUNGEKO, Fatsah OUGUERGOUZ, Duncan TAMBALA, Elsie N. THOMPSON, Sylvain ORÉ, El Hadji GUISSSE and Kimelabalou ABA – Judges and Robert ENO –Registrar,

In conformity 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 and Rule 8(2) of the Rules of Court, (the Rules), Judge Augustino S.L. Ramadhani, member of the Court and Tanzanian national, did not hear the case.

In the matter of:

KARATA ERNEST AND OTHERS

Applicants

V.

THE UNITED REPUBLIC OF TANZANIA

Respondent

1. By an Application filed with the Registry of the Court on 27 January 2012, some former employees of the East African Community, an African regional organization which was dissolved in 1977, brought the United Republic of Tanzania before the African Court on Human and Peoples' Rights for allegedly violating some of their basic rights.
2. The Application was placed on the cause list on 30 January 2012 under the title "Karata Ernest and Others v. the United Republic of Tanzania", Application No. 001/2012.
3. In a letter, dated 25 October 2012, addressed to the Court, Mr. Karata Ernest and six (6) other former employees of the defunct organization stated that they had never filed any Application with the Court nor had they authorized anyone to use their names for that purpose.



4. In like manner, the Respondent filed preliminary observations, dated 29 January 2013, in which it requested the Court to declare the Application, titled "Karata Ernest and Others v. the United Republic of Tanzania", inadmissible for failing to comply with Rule 40 of the Rules of Court. They maintain that the said Rule had been violated because the Application was signed by persons other than Karata Ernest and others mentioned in the said Application.
5. In their reply to the Respondent's response, dated 9 April 2013, the Applicants expressed surprise at the statements made by Karata Ernest and the other former employees and argued that they had simply withdrawn from the Application without giving genuine reasons. They, however, requested that the title of the Application be changed to "Frank David Omary and Others v. The United Republic of Tanzania", especially as the Respondent had also sought a change of name to replace "Attorney General" with the "United Republic of Tanzania".

Position of the Court

6. The issue at hand is whether the Court can amend the title of an Application brought before it by substituting the name of a person who was erroneously made a party with the name of a proper party, before proceeding with the case.
7. In the circumstances, the Court distinguishes between the identity of the Applicant and the title of the Application. Rule 40 of the Rules of Court provides that for an Application to be considered, it must "*disclose the identity of the Applicant notwithstanding the latter's request for anonymity*". The Court notes that Rule 40 does set a condition with regard to the identity of Applicants but it does not apply to the title of an Application.




8. Furthermore, the Court notes that the change of the title of the Application would not adversely affect either the procedural or substantive rights of the Respondent.
9. The Court duly notes further that Karata Ernest and six (6) others have stated that they had never filed any Application with the Court nor had they authorized anyone to use their names for that purpose, and, consequently, considers that they are not party to the case.
10. Consequently, the Court deems it necessary to change the initial title of the Application from "Karata Ernest and Others v. The United Republic of Tanzania" to "Frank David Omary and Others v. The United Republic of Tanzania" as proposed by the other Applicants.

11. For these reasons, the Court hereby unanimously:

- TAKES DUE NOTE of the fact that Karata Ernest and six Others are not party to this application;
- CONCLUDES that consideration of Application No 001/2012 by the Court will not be affected by the change of the initial title of the Application;

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- DIRECTS that the initial title of the Application, that is, "Karata Ernest and Others v. The United Republic of Tanzania" be replaced by "Frank David Omary and Others v. The United Republic of Tanzania";
- DECLARES that Application No. 001/2012 will henceforth be titled "Frank David Omary and Others v. The United Republic of Tanzania";

 Done in Arusha this ^{27th} of September 2013, in English and French, the English version being authoritative.

Signed:


Judge Sophia A.B. Akuffo, President;

Robert ENO, Registrar.





