

## SUBSTANCE

### Political participation – article 13

In *Mtikila*, the Court held that in determining whether the right to participate freely in government was lawfully limited, it must be established that ‘a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights.’ In this case, there was nothing before the Court to prove that: (a) ‘the restrictions on the exercise of the right to participate freely in the government of the country by prohibiting independent candidates falls within the permissible restrictions set out in article 27(2) of the Charter,’ and (b) the limitation on the right through the proscription of independent candidacy is proportionate to the alleged aim of ensuring solidarity and national unity (*Tanganyika Law Society, The Legal and Human Rights Centre v The United Republic of Tanzania*, application 009/2011; *Reverend Christopher R. Mtikila v The United Republic of Tanzania*, application 011/2011, judgment, 14 June 2013, paras 107.1 & 107.2).

The Court also held that even though the Applicant had been compelled to form his own party, ‘he has the right to seek to insist on the strict observance of his Charter rights.’ According to the Court, the matter could not be validly treated as though it were a personal matter because any violation to participate freely in government would have been prejudicial to all Tanzanians (*Mtikila*, para 110).