

SUBSTANCE

Fair trial / right to have one's cause heard – article 7

Right to legal aid

A state has an obligation to provide legal aid to accused persons at all stages of proceedings in cases which qualify for legal aid or at least inform the accused person of the right to legal aid (*Wilfred Onyango Nganyi & 9 others v Tanzania v The United Republic of Tanzania*, application 006/2013, judgment, 18 March 2016, para 181). It behoves on the respondent state to inform the applicant of the right to legal aid and for the judicial authorities of the state to ensure that accused persons are represented by counsel especially where serious charges are involved (*Onyango* para 168). The state has the obligation to provide legal aid even if the accused does not make an application for it, as soon as it is evident that the accused is not represented by a lawyer (*Onyango* paras 181-184; *Alex Thomas v United Republic of Tanzania*, application 005/2013, judgment, 20 November 2015 para 123; *Abubakari Mohamed v The United Republic of Tanzania*, Merits, Application 007/2013, 3 June 2016 para 138 & 139). Failure to inform an accused person of the right to have access to a lawyer and subsequently providing the accused with a lawyer affects the ability of the accused to effectively defend himself and constitutes a violation of article 7(1)(c) of the Charter (*Abubakari Mohamed v The United Republic of Tanzania*, Merits, Application 007/2013, 3 June 2016 paras 121 & 122).