

Zabron v. United Republic of Tanzania: The Vienna Convention of 1963 on Consular Relations Guarantees a Right to Defense Under the African Charter on Human and Peoples' Rights

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I. OVERVIEW

Nzigiymana Zabron is a Burundi national living in Tanzania.¹ He lived at the Kanembwa Camp as a refugee after fleeing Burundi in 1994.² After living at the camp for ten years, he was arrested for the murder of Fadhili Seleman in 2004.³ During the arrest, the police tried to communicate with Zabron in Kihia, rather than Kirundi, his native language.⁴ The statement given to the police, however, was written in Kiswahili, a language Zabron did not speak nor understand.⁵ Furthermore, he was not provided an interpreter to review the statement or the answers he gave to the police during the interrogation.⁶ As a result, he remained

1. Zabron v. United Republic of Tanzania, No. 051/2016, Judgment, African Court on Human and Peoples’ Rights [Afr. Ct. H.P.R.], ¶ 1 (June 4, 2024), <https://www.african-court.org/cpmt/storage/app/uploads/public/666/745/3d2/6667453d21c2a296373419.pdf>.

2. *Id.* ¶ 106, 170.

3. *Id.* ¶ 3.

4. *Id.* ¶ 98.

5. *Id.*

6. *Id.*

unaware of the charges against him, the contents of his police statement, and the misrepresentation of evidence he provided to the police, until he was informed by a fellow inmate while detained in prison.⁷ He was ultimately charged with murder in the High Court of Tanzania at Tabora in 2008.⁸ During the trial proceedings, there was an interpreter translating between English and Kiswahili, both languages that Zabron did not understand at the time.⁹ He was convicted and sentenced to death by hanging four years later on June 25, 2012.¹⁰

Zabron appealed the sentencing and conviction to the Court of Appeal of Tanzania in 2013, but the Court dismissed the appeal.¹¹ A few years later, in 2016, he filed a case with the African Court on Human and Peoples' Rights, alleging the State of Tanzania, violated, amongst other rights, his right to a fair trial under Article 7 of the African Charter of Human and Peoples' Rights, particularly where his right to defense under Article 7(1)(c) and right to consular assistance as read with Article 36 of the Vienna Convention on Consular Relations are concerned.¹² The African Court on Human and Peoples' Rights held that Tanzania did not violate Zabron's right to defense under Article 7(1)(c), specifically regarding the right to interpretation in his native language, because he understood the criminal proceedings, but Tanzania did violate his right to defense under 7(1)(c), as read with Article 36 of the Vienna Convention on Consular Relations, by failing to inform him of his right to consular assistance. *Zabron v. United Republic of Tanzania*, No. 051/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 219 (June 4, 2024), <https://www.african-court.org/cpmt/storage/app/uploads/public/666/745/3d2/6667453d21c2a296373419.pdf>.

II. BACKGROUND

The African Charter on Human and Peoples' Rights (the Charter) establishes fundamental rights for all African people, including the right to have their causes heard.¹³ Article 7(1)(c) explicitly provides that an individual has the right to defense, which includes the right to be defended by counsel of one's own choosing.¹⁴ To bring a case involving a violation of human rights, an individual can file an application with the African

7. *Id.* ¶ 98, 101.

8. *Id.* ¶ 3.

9. *Id.* ¶ 99.

10. *Id.*

11. *Id.* ¶ 4.

12. *Id.* ¶ 6, 7.

13. African Charter on Human and Peoples' Rights art. 7.

14. *Id.*

Court on Human and Peoples' Rights, which has jurisdiction to hear all cases submitted to it concerning the interpretation and application of the Charter, the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court of Human and Peoples' Rights (the Protocol), and other human rights law that has been ratified by the concerned state.¹⁵ When analyzing these cases, the Court must use provisions of the Charter and any other relevant human rights law ratified by the concerned states to establish if there has been a violation of the individual's rights.¹⁶ Tanzania, as the concerned state in the noted case, became a party to the Charter on October 21, 1986, and to the Protocol on February 10, 2006.¹⁷

A. Article 7(1)(c) Read with the International Convention on Civil and Political Rights

Although not expressly provided in Article 7(1)(c) of the Charter, the Court has interpreted that an individual's right to defense includes the right to the assistance of an interpreter.¹⁸ Specifically, the International Convention on Civil and Political Rights (ICCPR) provides a minimum guarantee for an individual "to be informed promptly and in detail in a language which he understands of the nature and cause of the charges against him" and "to have free assistance of an interpreter if he cannot understand or speak the languages used in court."¹⁹ Jointly reading Article 14(3) of the ICCPR with Article 7(1)(c) of the Charter, the Court has held that all accused persons have the right to an interpreter if they cannot understand or speak the language being used in the proceedings against him.²⁰ The purpose of an interpreter during these proceedings is for the accused person to understand the charges against him and to take part in

15. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court of Human and Peoples' Rights [hereinafter Protocol on the Establishment of an African Court on Human and Peoples' Rights] art. 3.

16. Protocol on the Establishment of an African Court on Human and Peoples' Rights art. 7.

17. *Zabron v. United Republic of Tanzania*, No. 051/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 2 (June 4, 2024), <https://www.african-court.org/cpmt/storage/app/uploads/public/666/745/3d2/6667453d21c2a296373419.pdf>.

18. *Guehi v. United Republic of Tanzania*, No. 01/2015, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 73 (Dec. 7, 2018), <https://www.african-court.org/cpmt/storage/app/uploads/public/5f5/632/902/5f563290222a0618790197.pdf>.

19. International Convention on Civil and Political Rights art. 14.3 (a) and (f).

20. *Guehi*, No. 01/2015 ¶ 73; *Makame v. United Republic of Tanzania*, No. 023/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 91 (June 25, 2021), <https://www.african-court.org/cpmt/storage/app/uploads/public/60d/afc/883/60dafc883c691062105779.pdf>.

the proceedings.²¹ This does not require an exceptionally proficient fluency in the language being used in the proceedings; rather the requirement is simply an understanding of the language.²² If an accused person is represented by counsel who understands the language used in the proceedings, it must be communicated to the domestic courts if an interpreter is needed.²³

When analyzing violations of the right to an interpreter under Article 7(1)(c), the Court weighs the ability to communicate in the language used in the proceedings against the behavior and purpose of the proceedings.²⁴ For example, in *Guehi v. United Republic of Tanzania*, the Court held that not providing a French interpreter for an Ivorian detainee during the proceedings did not violate his right to defense under Article 7(1)(c) of the Charter.²⁵ The Court reasoned that the detainee was expressly told he was being interrogated and gave a fifteen-page police statement in English, which included that he understood the purpose of the interrogation and did not need assistance to understand this purpose.²⁶ During the trial proceedings and the preliminary hearing, appointed counsel assisted him, he was read the same charges before pleading guilty, and did not raise any issue regarding his police statement.²⁷ The Court further reasoned that the foreign detainee did not point to object to anything in the record and nor demanded the presence of an interpreter.²⁸ Therefore, the Court concluded that by not objecting during the proceedings, he understood the processes and consented to the language in which they were done.²⁹

B. Article 7(1)(c) Read with the Vienna Convention on Consular Relations

Similar to the right to an interpreter, the right to consular assistance is not expressly provided by the Charter. Despite this, the Court has held that this right is protected by Article 7(1)(c) of the Charter.³⁰ Article 36(1) of the Vienna Convention on Consular Relations (VCCR) provides

21. *Guehi*, No. 01/2015 ¶ 73.

22. *Id.*

23. *Makame*, No. 023/2016 ¶ 93.

24. *Guehi*, No. 01/2015 ¶ 75.

25. *Id.* ¶ 78.

26. *Id.* ¶ 76.

27. *Id.*

28. *Id.*; *See also Makame*, No. 023/2016 (held that there was no violation because there was no request for interpretation that was communicated to the Court).

29. *Guehi*, No. 01/2015 ¶ 77.

30. *Id.* ¶ 95.

foreign detainees the right to consular assistance and specifies the duties and obligations of states that have foreign detainees within their jurisdiction.³¹ Article 36(1)(a) denotes the right for consular officers to communicate with and have access to nationals of the sending state and for nationals of the sending state to communicate with and access officers of the sending state.³² Article 36(1)(b) states that if requested, competent authorities of the receiving state must inform the consular post of the sending state, without delay, if a national of the sending state is arrested, committed to prison, in custody pending trial, or detained in any other way.³³ Those authorities must also inform the concerned person without delay of his rights under Article 36(1).³⁴

The precedent case establishing the right to consular assistance for foreign nationals detained in Tanzania is *Augustine v. United Republic of Tanzania*. In that case, the Court held that Tanzania is required to inform a foreign detainee within their jurisdiction of their right to consular assistance, since it is a party to the VCCR.³⁵ The Court reasoned that consular services are critical to guaranteeing the right of a fair trial, and thus states are required to facilitate consular services to foreign nationals detained in their jurisdiction.³⁶ The Court further explained that Article 36(1) imposes two obligations to the states³⁷: first, an obligation to inform the detainee of the right to consular assistance,³⁸ and second, an obligation to facilitate consular services at the request of the detainee, after being informed of the right to consular assistance.³⁹ Within this framework, the Court examines violations of consular rights using a two-stage analysis: Could the detainee request consular assistance, and was the state under obligation to inform the detainee of the right to request consular assistance?⁴⁰

The Court also noted that the minimum sureties of criminal justice should be interpreted according to the VCCR to guarantee due process and a fair trial.⁴¹ Having consular assistance could decide the outcome of

31. *Augustine v. United Republic of Tanzania*, No. 058/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 80 (June 13, 2023), <https://www.african-court.org/cpmt/storage/app/uploads/public/648/86f/321/64886f321aadd403269137.pdf>.

32. Vienna Convention on Consular Relations 1963 art. 36(1)(a).

33. *Id.* at art. 36(1)(b).

34. *Id.*

35. *Augustine*, No. 058/2016 ¶ 80, 88.

36. *Id.* ¶ 81.

37. *Id.* ¶ 82.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.* ¶ 85.

a criminal case because it guarantees the detainee protection of his home state.⁴² Particularly, it guarantees advice on constitutional and legal rights in the detainee's native language in a comprehensible manner and appointment of legal counsel to ensure understanding of the consequences of the criminal charges.⁴³ Therefore, the Court concluded, a foreign detainee must be informed of his rights when arrested, or before making a statement or confession, and before trial proceedings start.⁴⁴ In *Augustine*, the Court found that although Tanzania sought out and recorded Augustine's nationality, and were thus aware that he was a foreign detainee within their jurisdiction being charged with murder, which carries a grave sentence, the state did not inform him of his right to consular assistance.⁴⁵ Once Tanzania was aware that he was not a national, Augustine should have immediately been informed by competent authorities of his right to consular assistance.⁴⁶ The Court concluded that by not informing him of his right, Tanzania denied him an opportunity to seek consular assistance to help with his defense, violating his rights under Article 7(1)(c) of the Charter and Article 36(1) of the VCCR.⁴⁷

III. THE COURT'S DECISION

In the noted case, the African Court on Human and Peoples' Rights relied on *Guehi* and *Augustine* to find that certain Article 7(1)(c) Charter rights were violated while others were not.⁴⁸ The Court held that Zabron's right to defense under Article 7(1)(c) regarding the right to an interpreter was not violated because he did not expressly object to the proceedings being conducted in Kiswahili and English.⁴⁹ The Court also held that his right to consular assistance under Article 7(1)(c) was violated because Tanzania failed to inform him of his right to consular assistance despite knowing he was a foreign national.⁵⁰

The Court dismissed the allegation that Tanzania violated Zabron's right to defense under Article 7(1)(c) of the Charter by not providing an

42. *Id.* ¶ 83.

43. *Id.*

44. *Id.* ¶ 85.

45. *Id.* ¶ 86.

46. *Id.*

47. *Id.* ¶ 88.

48. *Zabron v. United Republic of Tanzania*, No. 051/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 219 (June 4, 2024), <https://www.african-court.org/cpmt/storage/app/uploads/public/666/745/3d2/6667453d21c2a296373419.pdf>.

49. *Id.* ¶ 108.

50. *Id.* ¶ 180.

interpreter during the criminal proceedings.⁵¹ The Court first noted that, although the Charter does not provide a right to an interpreter during proceedings, the ICCPR does.⁵² Using *Guehi*, the Court views a reading of Article 7(1)(c) of the Charter along with Article 14(3) of the ICCPR to provide every accused person the right to an interpreter, especially if he cannot understand or speak the languages used in court proceedings.⁵³ The Court added that Section 211(1) of the Criminal Procedure Act of Tanzania follows this same logic, providing that if an accused person does not understand the evidence being presented in court, the evidence shall be interpreted in open court in a language he understands.⁵⁴ A language he understands, however, is not synonymous with the accused person's native language as the purpose of understanding the language used at trial is to ensure the accused is aware of the charges against him and can participate in the proceedings.⁵⁵

In the noted case, the Court found that during the trial proceedings, there was translation between English and Kiswahili, including when Zabron pleaded not guilty after having the information of the proceedings read and explained to him.⁵⁶ It was also noted in the record that he gave evidence in his defense.⁵⁷ The Court thus determined that participating in the trial demonstrated an understanding of the languages used.⁵⁸ Furthermore, the Court reasoned that Zabron did not raise any objections to the proceedings not being interpreted in his native language of Kirundi.⁵⁹ By not being able to show anywhere in the record where he did so, the Court concluded that he understood the proceedings and agreed to their being conducted in Kiswahili and English.⁶⁰ The Court held that the absence of interpretation in Kirundi during the court proceedings did not affect Zabron's ability to defend himself because he had the requisite understanding of the languages used to make decisions on whether and how he should participate in the trial, including the choice to object.⁶¹

51. *Id.* ¶ 109.

52. *Id.* ¶ 102.

53. *Id.* ¶ 103.

54. *Id.* ¶ 104.

55. *Id.* ¶ 105; *Guehi v. United Republic of Tanzania*, No. 01/2015, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], (Dec. 7, 2018), <https://www.african-court.org/cpmt/storage/app/uploads/public/5f5/632/902/5f563290222a0618790197.pdf>.

56. *Zabron*, No. 051/2016 ¶ 106.

57. *Id.*

58. *Id.* ¶ 107.

59. *Id.*

60. *Id.* ¶ 108.

61. *Id.* ¶ 108, 109.

The Court next assessed Zabron's right to consular assistance as a Burundi national, holding that this right was violated under Article 7(1)(c).⁶² The Court first noted that the right to consular assistance under Article 36(1) of the VCCR is also protected under Article 7(1)(c) of the Charter, although the Charter does not explicitly state it.⁶³ The Court reasoned that the record did not indicate that Tanzania denied a request for consular assistance from Zabron, nor that he requested consular assistance at all; however, a failure to request did not absolve Tanzania of its responsibility to inform Zabron of his rights.⁶⁴ The Court reiterated its position in *Augustine* that a foreign detainee must be informed his rights "at the time of arrest or before he makes any statement or confession and also before the commencement of the trial process."⁶⁵

In the noted case, there was no record of Tanzania notifying Zabron of his right to consular assistance.⁶⁶ The Court reasoned, however, that there was record by domestic judicial authorities of his nationality, signifying Tanzania knew he was a foreign national detained and charged with a criminal offense that carried a severe sentence.⁶⁷ The Court explained that although Zabron is a refugee, communicating with Burundi to facilitate consular assistance would not be in contrast with the principal of non-refoulement.⁶⁸ The Court hence found that he was deprived of the opportunity to support with his defense through consular advice.⁶⁹ The Court held that by not informing him of his rights, Tanzania violated Zabron's right to defense under Article 7(1)(c) of the Charter, as read with Article 36(1) of the VCCR.⁷⁰

IV. ANALYSIS

In the noted case, the Court separated violations of Article 7(1)(c) of the Charter based on Zabron's allegations.⁷¹ Although the Court held that his rights under the VCCR were violated, as protected by Article 7(1)(c), this was found after analyzing violations of his right to defense under Article 7(1)(c) without considering how the VCCR impacted other

62. *Id.* ¶ 108.

63. *Id.* ¶ 174, 175.

64. *Id.* ¶ 177.

65. *Id.* ¶ 178.

66. *Id.* ¶ 179.

67. *Id.*

68. *Id.*

69. *Id.* ¶ 180.

70. *Id.* ¶ 181.

71. *Id.* ¶ 6.

violations.⁷² In analyzing the right to an interpreter under Article 7(1)(c), the Court focused mainly on the trial proceedings, holding that Zabron's rights were not violated because he understood the languages used in court.⁷³ However, when analyzing the right to consular assistance under the VCCR, the Court observed that this right should have been provided to him before trial proceedings.⁷⁴ By categorizing these issues by their occurrence before or during trial proceedings, the Court views that the right to defense can be analyzed under separate criminal proceeding timelines that do not affect each other. However, it does not follow Tanzanian law nor international law to analyze violations of Article 7(1)(c) independently and irrespectively of each other.

A. Article 7(1)(c) Provides a Right to Defense Throughout the Criminal Process

Article 7 of the Charter does not specify when an individual shall or shall not have his cause heard, implying that an individual's rights under this section are protected throughout the entire process in which the cause is heard.⁷⁵ Article 14(3) of the ICCPR, which is read with Article 7(1)(c) of the Charter by the African Peoples' Court on Human and Peoples' Rights, also states an individual is entitled to the rights in the ICCPR "in the determination of any crime against him."⁷⁶ Moreover, the Court has stated that consular assistance could affect the outcome of a criminal trial, implying assistance could also affect the entire criminal procedure.⁷⁷ As individuals are entitled to consular assistance before any trial proceedings, it appears Article 7(1)(c) does not confer rights simply during court proceedings, but rather from the time of arrest to sentencing, if criminal proceedings go as far.

This view of Article 7(1)(c) protections also follows Tanzania's own law. Tanzania's Criminal Procedure Act provides for the proper conduct of not only the trial proceedings, but also the arrest and investigation.⁷⁸ This aligns with ICCPR Article 14(3) which provides the rights in "determining" the crime against the accused.⁷⁹ As Tanzanian law

72. *Id.* ¶ 181.

73. *Id.* ¶ 108.

74. *Id.* ¶ 178.

75. African Charter on Human and Peoples' Rights art. 7.

76. International Convention on Civil and Political Rights art. 14.3.

77. *Augustine v. United Republic of Tanzania*, No. 058/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 83 (June 13, 2023), <https://www.african-court.org/cpmt/storage/app/uploads/public/648/86f/321/64886f321aadd403269137.pdf>.

78. Criminal Procedure Act, 2022 (CAP. 20 R.E. 2022) (Tanz).

79. International Convention on Civil and Political Rights art. 14.3.

establishes that determining a crime against an individual involves the arrest, investigation, and trial proceedings, the Court should not disconnect violations of the right to defense at any of these stages and treat them as isolated violations. A violation of the right to defense at any point jeopardizes the rest of the criminal procedure. Since the Court found that Tanzania violated one of Zabron's rights that should have been provided to him before any trial proceedings occurred, his right to defense to determine the criminal charges against him was prejudiced throughout the criminal proceedings.

B. The Right to an Interpreter Is Incorporated Within the Right to Consular Assistance

Though the Court correctly held that Zabron's right to consular assistance was violated under Article 7(1)(c) of the Charter and Article 36(1) of the VCCR, it failed to recognize that his right to an interpreter under Article 7(1)(c) and Article 14(3) of the ICCPR was also violated. The safeguard of the right to consular assistance is to assist with a foreign detainee's defense, including his understanding the charges against him and receiving advice from legal counsel of his rights in his native language.⁸⁰ This follows the Court's recognized view that the purpose of an interpreter under Article 7(1)(c) is to understand and be able to participate in the proceedings.⁸¹ As expressed earlier, Article 7(1)(c) protects the entire criminal procedure. This suggests that the right to an interpreter is not limited to the trial proceedings, as the Court interprets, but also any proceedings before trial, as individuals must be informed of the right to consular assistance before trial proceedings once the concerned state is aware the accused is a foreign national. Article 36(1)(c) of the VCCR even states that consular officers can visit a detained foreign national to speak with him and arrange for legal counsel.⁸² Not only would the arranged legal counsel communicate in a language the foreign detainee understands, but the consular officers could also provide an interpreter for the proceedings, if necessary. Therefore, if Zabron requested consular assistance after being informed of his right to do so, he should have been given the opportunity to speak with a consulate officer to provide an interpreter during the criminal proceedings, if necessary.

80. *Augustine*, No. 058/2016 ¶ 83.

81. *Guehi v. United Republic of Tanzania*, No. 01/2015, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 75 (Dec. 7, 2018), <https://www.african-court.org/cpmt/storage/app/uploads/public/5f5/632/902/5f563290222a0618790197.pdf>.

82. Vienna Convention on Consular Relations 1963 art. 36(1)(c).

The Court only analyzed whether the right to an interpreter was violated during the trial proceedings. The right to consular assistance, however, must be communicated when the accused is arrested or before he makes a statement or confession and before the trial.⁸³ In the noted case, the accused was not informed of his right to consular assistance at any point.⁸⁴ The right to consular assistance is to ensure that the accused understands the charges against him and the consequences of these charges, yet Zabron did not understand anything until he was already detained.⁸⁵ Had he been informed of his right to consular assistance, he would have been able to give a statement to the police that communicated all of the necessary information. It is unclear whether he still would have been found guilty, or detained at all, but nevertheless, part of his right to a fair trial was violated. One of the safeguards of criminal justice is the opportunity to create the best defense possible. If an accused does not understand the charges against him nor any other information communicated to him during the criminal proceedings, a fair trial is not possible. Accordingly, the Court should have found that Zabron's right to an interpreter under Article 7(1)(c) was violated.

The Court noted that he was assisted by counsel who understood the proceedings and that his counsel could have objected on his behalf or communicated to the Court the need for interpretation.⁸⁶ Though it is also important to note that the lawyer understood the proceedings because he studied law in the languages used in the proceedings and because he specializes in Tanzania criminal defense, thereby understanding Tanzania's criminal procedure. For the most part, defense counsel speak on behalf of their accused clients instead of the accused speaking for themselves. By noting that Zabron was read the information about the crime and then pleaded not guilty, it is possible that he was not the one who verbalized his plea for the record.⁸⁷ For example, in *Henerico v. United Republic of Tanzania*, the information at arraignment was read in Kiswahili and the accused detainee responded back "not true" in Kiswahili, resulting in a plea of not guilty being entered on his behalf.⁸⁸

83. *Augustine*, No. 058/2016 ¶ 85; *Zabron v. United Republic of Tanzania*, No. 051/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 178 (June 4, 2024), <https://www.african-court.org/cpmt/storage/app/uploads/public/666/745/3d2/6667453d21c2a296373419.pdf>.

84. *Zabron*, No. 051/2016 ¶ 179.

85. *Id.*, ¶ 98.

86. *Id.*, ¶ 107.

87. *See id.*, ¶ 106.

88. *Henerico v. United Republic of Tanzania*, No. 056/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 130 (Jan. 10, 2022), <https://www.african-court.org/cpmt/storage/app/uploads/public/61e/163/77e/61e16377e31f0332569496.pdf>.

However, in the noted case, it is not mentioned whether the accused expressly pleaded not guilty in Kiswahili or in his own words at all. It is unclear if he understood the laws of Tanzania well enough to know that he had a right to object, but nevertheless his appointed lawyer should have known and communicated this right to him. Even if the appointed counsel failed to do so, had Zabron been informed of his right to consular assistance, and he requested it, he could have received advice on what he could and could not object to.⁸⁹

V. CONCLUSION

The Court in the noted case failed to recognize that the right to defense, such as the right to an interpreter, under Article 7(1)(c) of the Charter can be affected if the right to consular assistance, provided by Article 36(1) of the VCCR, as supposedly protected by Article 7(1)(c), is violated. A violation of the right to defense at any point during criminal proceedings will likely prejudice the defendant's right to a fair trial; therefore any violations under Article 7(1)(c) of the Charter should also be viewed as potentially violating a defendant's guarantee of criminal justice. If we recognize that the minimum guarantee of the respect of a fair trial of foreign detainees includes consular assistance by the home state to facilitate the defense of the detainee, then the rights relating to this minimum guarantee must be read in the same manner. Consequently, if the right to consular assistance is violated under Article 7(1)(c), all other Article 7(1)(c) rights that could have been affected by the right to consular assistance must also be found to have been violated. This dismissal of human rights also continues the long-standing precedent that allegations and rights under Article 7(1)(c) should be viewed separately instead of in conjunction under the same Article 7 provision—which does not seem to be in the best interest of an accused person's rights.

Gina-Mia Tangelo*

89. See *Augustine v. United Republic of Tanzania*, No. 058/2016, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], ¶ 83 (June 13, 2023), <https://www.african-court.org/cpmt/storage/app/uploads/public/648/86f/321/64886f321aadd403269137.pdf> (conveying a right to consular assistance that included receiving advice on his legal rights from the consulate office's legal counsel).

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