



**EAST AFRICAN COURT OF JUSTICE**  
**APPELLATE DIVISION**  
**Ruling: 28<sup>th</sup> May 2019 from 9:30 am**  
*(Open Court, 2<sup>nd</sup> floor, EAC Headquarters)*

***Consolidated Application No. 4 of 2018 Attorney General of the Republic of Uganda vs Ronald Ssemuusi (Deceased) & Media Legal Defence Initiative and Application No.6 of 2018 Media legal Defence Initiative (MLDI) & 19 Others vs the Attorney General of Uganda (Arising from Reference No.16 of 2014 Ronald Ssemuusi vs the Attorney General of the Republic of Uganda)***

**Application filed on:** 16<sup>th</sup> July 2018 and 6<sup>th</sup> October 2018 respectively.

**Rules:** 1(1), 4, 81, 82 and 84 (2) of the EACJ Rules of Procedure, 2013.

**Subject matter:** *Criminal defamation.*

The Attorney General of Uganda filed *Application No. 4 of 2018* seeking extension of time to appeal a ruling of the First Instance Division dated 20<sup>th</sup> September 2017 that granted leave to the 2<sup>nd</sup> Respondents, MLDI & 19 Other Non-Governmental Organisations (NGOs) to join as *amici curiae* in *Reference No.16 of 2014 between Ronald Ssemuusi (Deceased) and the Attorney General of the Republic of Uganda*, a matter which is pending before the First Instance Division. Whereas MLDI and 19 other NGOs filed Application No. 6 of 2018 seeking to have the Attorney General's Application struck out. The two Applications were consolidated.

The Reference out of which the Applications arose, challenges sections 179 and 180 of Uganda's Penal Code Act (Cap 120), which provide for the offence of criminal defamation on the premise that, the challenged provisions place unjustified restrictions on the right to freedom of expression, freedom of the press and the right to access to information contrary Article 6(d) and 7(2) of the Treaty Establishing the East African Community. It also challenges the conviction and sentencing of the 1<sup>st</sup> Respondent (Ronald Ssemuusi (deceased)) under the said provisions asserting that, it constituted a violation of Article 8(1) (a) and (c) of the Treaty.

The 1<sup>st</sup> Respondent, Ronald Ssemuusi (deceased) was a radio journalist who had been convicted and sentenced of criminal defamation by a Magistrates Court in Uganda for reporting allegations of theft by an official. On December 2<sup>nd</sup> 2014, the late Ronald Ssemuusi filed the said Reference challenging the continued use of sections 179 and 180 of the Penal Code of Uganda which provides for the offence of criminal defamation claiming that it violates the Treaty for the Establishment of the East African Community. Ronald Ssemuusi died a few weeks after filing the Reference.

The 2<sup>nd</sup> Respondents consist of the following organisations: Media Legal Defence Initiative (MLDI), Africa Freedom of Information Centre (AFIC), ARTICLE 19 Eastern Africa, Centre for Human Rights of the University of Pretoria, Centre for Media Studies and Peacebuilding (CEMESP), Centre for Public Interest Law (CEPIL), Committee to Protect Journalists (CPJ), Foundation for Human Rights Initiative (FHRI), Freedom of Expression Institute (FXI), Ghanaian PEN Centre, Human Rights Network–Uganda (HURINET-U), Media Council of Tanzania (MCT), Media Rights Agenda, Media Institute of Southern Africa (MISA), Pan African Lawyers Union (PALU), PEN International, PEN Sierra Leone, PEN Uganda and World Association of Newspapers and News Publishers (WAN-IFRA).

The back ground of the matter is that, on 10<sup>th</sup> June 2015 MLDI & 19 other NGOs lodged *Application No. 4 of 2015* before the First Instance Division seeking leave to be joined as *amici curiae* in *Reference No.16 of 2014 between Ronald Ssemuusi (Deceased) and the Attorney General of the Republic of Uganda*.

MLDI & other 19 NGOs requested to be joined in the above Reference to allow them put before this Honorable Court written submission on points of law, on the international human rights standards relating to freedom of expression and criminal defamation.

On 28<sup>th</sup> June 2016, the First Instance Division delivered its ruling granting MLDI & 19 other NGOs leave to join the said Reference as *amicus curiae* and to submit a joint *amicus* brief restricting to issues within the *amici curiae*'s mandate and of specific relevance to the main proceedings.

The Attorney General of Uganda being dissatisfied with the above ruling, appealed to the Appellate Division on 14<sup>th</sup> July 2016. On 26<sup>th</sup> May 2017, the Appellate Division handed down its judgment, quashing and setting aside the ruling of the First Instant Division. In the Ruling the Appellate Division found the First Instance Division had erred in law and procedurally and directed the First Instance Division to compose a fresh ruling containing a clear determination of the preliminary objections made by the Attorney General. The preliminary objection related to the competence of an affidavit grounding the application seeking leave to be joined as *amici curiae*.

The Appellate Division also recognized how uncontrolled right of appeal might result in delays resulting in a denial of justice.

On 20<sup>th</sup> September 2017, the First Instance Division in composing a fresh ruling, explicitly addressed the preliminary objection and again granted the Applicants leave to join Reference No. 16 of 2014 as *amici curiae*.

From the above ruling, followed a number of erroneous procedures on the part of the Applicant (Attorney General of Uganda) that delayed hearing and determination of the matter. However, in this Application, the Attorney General of Uganda seek extension of time to appeal against the ruling of the First Instance Division dated 20<sup>th</sup> September 2017 that granted leave to the 2<sup>nd</sup> Respondents (MLDI & 19 Other NGOs) to join as *amici curiae* in *Reference No.16 of 2014 between Ronald Ssemuusi (Deceased) and the Attorney General of the Republic of Uganda*, a matter which is pending before the First Instance Division.

Whereas on the other side, MLDI and 19 other NGOs seek to have the Attorney General's Application struck out for reasons that, there has been a lengthy delay in filing the notice of appeal, secondly the Applicants have not satisfactorily provided the Court with sufficient reasons for the delay and if the extension is granted, it will cause undue prejudice to the Respondent.

*This case summary is a document produced by the Registry to assist in understanding forthcoming matters before the Court. It does not bind the Court. For authoritative Decisions, Judgments and general information about the Court please visit <http://www.eacj.org>*

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