



**EAST AFRICAN COURT OF JUSTICE
APPELLATE DIVISION**

Judgment: 4th June 2020 from 9:30 am
(Via Video Conference)



Appeal No.2 of 2019 The Attorney General of the Republic of Burundi vs The Secretary General of the East African Community & Hon. Fred Mukasa Mbidde (Intervener)

Appeal filed: 26th August 2019.

Rule: 87 of the EACJ Rules of Procedure, 2013 and other enabling provisions.

Subject matter: Election of the 4th Speaker of the East African Legislative Assembly (EALA).

The Appellant, the Attorney General of the Republic of Burundi is challenging a decision of the First Instance Division in *Reference No.2 of 2018 The Attorney General of the Republic of Burundi vs The Secretary General of the East African Community & Hon. Fred Mukasa Mbidde (Intervener)* dated 2nd July 2019. In that decision, the First Instance Division dismissed the Reference for reasons among others that, the Applicant had not proven before the Court that the election of the Speaker of the 4th Assembly was indeed fraught with the absence of requisite quorum. Consequently, the Court was not satisfied that the election contravened Articles 53(1) or 57(1) of the Treaty establishing the East African Community or Rule 12(1) of the Assembly's Rules of Procedure.

The Appellant dissatisfied with the decision instituted this appeal alleging among other issues that, the First Instance Division erred in law in not finding the Speaker of the 4th Assembly of EALA was elected in contravention of Articles 53(1) or 57(1) of the Treaty or Rule 12(1) of the Assembly's Rules of Procedure. Further erred by striking out the affidavits sworn by the Counsel for the Applicant in the Reference and by not invoking Rule 1(2) of the Court's Rules of Procedure to order production of evidence from the Respondent and the intervener on the fact of quorum during the said election.

The Appellant therefore seeks the Appellate Division to order that; the Speaker of the 4th Assembly was elected without the elected members from the Republic of Burundi and the United Republic of Tanzania in violation of the provisions of Article 53(1) or 57(1) of the Treaty, or Rule 12(1) of the Assembly Rules of Procedure; re-election of the said position be conducted in accordance with the Treaty or the Assembly Rules of Procedure and the Speaker reimburse to the East African Community all the salaries and emoluments received as Speaker from the alleged faulted election up to the full execution of the Judgment of the Appellate Division.

The Respondent, the Secretary General of the East African Community (EAC) on his part challenges the appeal for not falling under the scope of Article 35A of the Treaty and Rule 77 of the Court Rules of Procedure. He further argues that, the First Instance Division did not err in law nor committed procedural irregularities in interpreting and applying Articles 53(1) or 57(1) of the Treaty or Rule 12(1) of the Assembly Rules of Procedure in determining the disputed election. The Respondent prays for dismissal of the appeal with costs.

Meanwhile the intervener, Hon. Fred Mukasa Mbidde a Member of the Assembly seeks the Appellate Division to review the decision of the First Instance Division by setting aside the order declining to award him and the Respondent costs for the proceedings in the Reference and prays for dismissal of the appeal with costs against the Appellant.

*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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