



EAST AFRICAN COMMUNITY
EAST AFRICAN COURT OF JUSTICE



First Instance Division to hear parties on cost in a withdrawn Economic Partnership Agreement (EPA) case

The hearing on cost in *Reference No.8 of 2016 Castro Pius Shirima v The Attorney General of the Republic of Burundi & 6 Others* will be tomorrow *Wednesday 20th March 2019* from *9:30 am*.

The Applicant sought for Court orders to stop the remaining Partner States of the East African Community (EAC) – Tanzania, Burundi, Uganda and South Sudan from signing the EPA for reasons that, the Agreement poses many risks to the region.

By the time the case was filed, Kenya and Rwanda had signed the Agreement with the European Union.

It was the Applicants case *inter alia* that, the signing of the EPA by Kenya and Rwanda violated the letters, spirit and/or the objectives, operational principles of the Treaty for the Establishment of the EAC.

Further that, the ratification of the EPA by Kenya is against the principle of mutual trust and sovereign equality, and it constitutes a violation of the provisions of EAC Treaty.

That, the signing of the EPA by the EAC constitutes a violation of the letters, spirits, objectives and operational principles and functions of the EAC Treaty. Further that, the whole process of negotiation of the EPA has never been participatory hence constituted a violation of the provisions of the EAC Treaty.

Before the Reference was heard the Applicant filed an Application seeking for an injunction to stop the EAC Partner States which had not signed the EPA Agreement not to sign the same and those who had signed, to stop them from carrying out any further procedures and processes.

On 6th July 2017, the First Instance Division declined to grant the above orders sought.

When the Reference came up for a Scheduling Conference on 13th September 2017, the Applicant prayed for adjournment of the proceeding to allow him process and finalize an Appeal against the ruling of the First Instance Division dated 6th July 2017.

The First Instance Division granted the Application for the adjournment of the Scheduling Conference with costs to all the Respondents having considered that, the Application to stay the proceeding was made without sufficient time to avoid costs that had been incurred by the parties in the matter.

However, on 20th April 2018 the Applicant withdrew the Reference in among others.

The hearing on costs will be in open Court, 2nd floor, EAC Headquarters.

The Applicant, Castro Pius Shirima is a Resident Magistrate in Arusha Region within the United Republic of Tanzania. He sued on his individual capacity under Article 30 of the EAC Treaty.

The 1st Respondent is the Attorney General of the Republic of Burundi.

The 2nd Respondent is the Attorney General of the Republic of Kenya.

The 3rd Respondent is the Attorney General of the Republic Rwanda.

The 4th Respondent is the Attorney General of the Republic of South Sudan.

The 5th Respondent is the Attorney General of the United Republic of Tanzania.

The 6th Respondent is the Attorney General of the Republic of Uganda. All sued on behalf of their Respective Governments.

The 7th Respondent is the Secretary General of the East African Community sued on behalf of the EAC.

Procedure

The Reference was lodged with the EACJ First Instance Division on 31st October 2016 pursuant to Article 30 of the Treaty and Rules 1(2) and 24 of the EACJ Rules of Procedure, 2013.

Composition of the Court

The hearing on cost will be before the following Honourable Judges: Justice Dr. Faustin Ntezilyayo (Deputy Principal Judge), Mr. Justice Fakihi A. Jundu and Justice Dr Charles Nyawello.

Representatives of the Parties

Applicant: Mr Moto Matiko Mabange

1st Respondent: Mr Nestor Kayobera

2nd Respondent: Mr Kepha Onyiso & Mr Maurice Ogosso

3rd Respondent: Mr Nicholas Ntarugera

4th Respondent: Absent

5th Respondent: Mr Mark Mulwambo & Mr David Kakwaya

6th Respondent: Mr Elisha Bafirawala, Mr Gerald Batanda & Ms Sylvia Cheptoris

7th Respondent: Mr Stephen Agaba

About the Court

The East African Court of Justice (EACJ or ‘the Court’), is one of the organs of the East African Community established under Article 9 of the Treaty for the Establishment of the East African Community. Established in November 2001, the Court’s major responsibility is to ensure the adherence to law in the interpretation and application of and compliance with the EAC Treaty. Arusha is the temporary seat of the Court until the Summit determines its permanent seat. The Court has sub-registries in each of the Partner States, save for South Sudan.

This Case Summary is a document produced by the Registry. It does not bind the Court.

Decisions, judgments and further information about the Court can be found on <http://www.eacj.org>.

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