

**Reference No. 11 of 2020 Adam Kyomuhendo v. The Attorney General of the Republic of Uganda & 6 Others**

**Coming up for hearing:** 4th day of October 2024

**Date filed:** 4th May 2020

**Article:** 3(3) (a) (b) and (f),6 (d) ,7(2) ,8(1) (c) ,30 and 123 (c) of the Treaty for the Establishment of the East African Community

**Rules:** 25 of the East African Court of Justice Rules of Procedure 2019

**Subject Matter:** Admissibility of Democratic Republic of Congo to EAC

The Applicant alleges that the Respondent's States process of admitting the Democratic Republic of Congo to the East African Community contravenes the Treaty because the Democratic Republic of Congo's failure to protect and promote the human rights by detaining arbitrarily, incommunicado, extra-legally and in very pitiful or squalid conditions of Samuel William Mugumya, Stephen Mugisha, Aggrey Kamukama, Joseph Kamugisha, Nathan Bright and 35 other citizens of the Republic of Uganda in various prisons and detention facilities including Ndolo Military Prison run and operated by the Democratic Republic of Congo using its agents, proxies, servant or auxiliaries under its direct command, influence and control thus failing to meet the requirements under Articles 3(3)(a) (b) and (f) of the Treaty for the Establishment of the East African Community

The Applicant contends that the United Republic of Congo have no right to be admitted as a member

The Applicant contends that measures by the heads of state and government as an organ in considering whether a foreign country applicant share, identifies with and adheres to universally acceptable principle of good governance, the rule of law and universally acceptable principle of the observance of human rights.

The First Respondent denies all the allegations and contends that the Court has no jurisdiction to inquire into alleged Human Rights violation of non-member of the EAC. He also contends that the Reference is overtaken by events as the current status is that the Democratic Republic of Congo was admitted to the Community by the Summit of Heads of State. Similarly, some of the allegedly illegally arrested and detained Ugandans, like Sam Mugumya were released by DRC upon serving their respective sentences as rendered by the Courts in DRC.

The Second Respondent contends that the Court has no jurisdiction to entertain the Reference and that the whole Reference discloses no cause of action against the Republic of Kenya or other Respondent as the facts pleaded by the Applicant do not disclose any of the matters contemplated under Article 30(1) of the Treaty of the Establishment of the East African Community. He also contends that the matter has been overtaken by events as the Democratic Republic of Congo has been admitted to the Community

The Third Respondent contends that the Court has no jurisdiction to entertain the Reference and that the process of consideration of foreign country into EAC which is the express mandate

of Partner States does not violate the Treaty. He also contends that the violations complained of are matters for domestic court of the Country and not this Court.

The Fourth Respondent avers that he has no knowledge of the alleged arbitrary arrests and detentions of the said Msamuel Mugumya, Stephen Mugisha, Aggrey Kamukuma, Joseph Kamugisha, Nathan Bright and 35 others of the Republic of Congo as alleged by the Applicant and such matters ought to be pursued directly by the Applicant with the responsible authorities in DRC. He further avers that this court has no jurisdiction and that the matter has been overtaken by events.

The Fifth Respondent contends that the Reference does not disclose any cause of action against him and that it is overtaken by events as the challenged admission process has been concluded by the Democratic Republic of Congo being admitted to the Community. He also contends that the Court has no jurisdiction over violations committed by a non-member State of the Community.

The Sixth Respondent contends that the Reference discloses no cause of action against the Republic of South Sudan and that the Court has no jurisdiction to entertain the Reference. He also contends that the issues raised are within the discretion of the respective mandated institutions established under the Treaty.

The Seventh Respondent contends that no cause of action has been raised against it and there is a criteria or admission of new members which together with the Treaty for the Establishment of the East African community were consistently adhered to in processing the admission of the Democratic Republic of Congo. He further contends that the matter relating to the suffering of certain citizens in the DRC such as Sam William Mugumya are the subject of the Government of Uganda and the Democratic Republic of Congo and should not be litigated in this court.

All the Respondents pray that the Reference should be dismissed with cost.

*This 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 <https://www.eacj.org>  
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