



**IN THE EAST AFRICAN COURT OF JUSTICE
AT ARUSHA
FIRST INSTANCE DIVISION**



*(Coram: Yohane B. Masara, PJ; Richard Muhumuza &
Kayembe Ignace Rene Kasanda; JJ)*

REFERENCE NO. 24 OF 2020

MALE H. MABIRIZI K. KIWANUKA APPLICANT

VERSUS

**THE ATTORNEY GENERAL OF
THE REPUBLIC OF UGANDA RESPONDENT**

31ST MARCH 2026

JUDGMENT OF THE COURT

A. INTRODUCTION

1. This Reference was lodged before this Court on 11th August 2020 by MALE H. MABIRIZI K. KIWANUKA, the Applicant herein, under Articles 23(1), 27(1) & 30(1) of the Treaty for the Establishment of the East African Community (“the Treaty”) and Rule 25(1) of The East African Court of Justice Rules of the Court, 2019 (“the Rules”).
2. The Applicant challenges the decision of the High Court of Uganda delivered on 10th July 2020 in **Moneylenders Association of Uganda Ltd. & Mk Financiers Ltd. vs Uganda Registration Services Bureau, Company Cause No. 11 of 2019**, which dismissed his claim on the grounds of *locus standi* and improper joinder of parties.
3. The Applicant alleges that the said decision, violated Articles 6(d) and 7(2) of the Treaty, particularly the principles of rule of law, good governance, and access to justice.
4. The Respondent opposes the Reference, contending that this Court lacks jurisdiction and that no violation of the Treaty has been established.

B. PARTIES

5. The Applicant describes himself as a male adult Ugandan of sound mind, a lawyer by training, businessman by choice and civically active, resident in Kampala, Uganda. His address of service for purposes of this Reference shall be c/o Plot 35, Kampala Road, Post

Office Building, 5th Floor, Room 501A, Kampala, Uganda. - e-mail: malehmkk@gmail.com.

6. The Respondent, is the Attorney General of the Republic of Uganda, sued in his official capacity as the Principal Legal Adviser to the Government of the Republic of Uganda. His address of service for purposes of the Reference is c/o Ministry of Justice and Constitutional Affairs, Directorate of Civil Litigation, Bowman House, Parliament Avenue, Kampala, Uganda.

C. REPRESENTATION

7. At the hearing, the Applicant was self-represented. The Respondent was represented by Mr Paul Wanyama Kodoli, Assistant Commissioner, Mr Atwera Johnson, Senior State Attorney and Mr Mhesi Mathew, State Attorney, all from the Chambers of the Attorney General of the Republic of Uganda.

D. THE APPLICANT'S CASE

8. The Applicant's case is contained in the Statement of Reference lodged in Court on 11th August 2020, in the Applicant's supporting Affidavit thereto filed on the same date and in the Applicant's Reply to the Respondent's Response of 13th October 2020. The Applicant also filed written submissions on 8th January 2025 in support of its case.
9. The Applicant avers that on 10th July 2020, the High Court of Uganda (Commercial Division), presided over by Hon. Justice Wejuli Richard Wabwire, delivered its Ruling in **Company Cause No. 11 of 2019: Moneylenders Association of Uganda Ltd. and MK Financiers Ltd vs Uganda Registration Services Bureau** (*supra*). The

Applicant contends that the said ruling was rendered more than sixty (60) days after the hearing of the matter. Which is outside the statutory period prescribed under the applicable laws of Uganda, and that such delay, coupled with the manner in which the proceedings were conducted, amounted to a violation of the principles of justice and fairness.

10. It is also the Applicant's case that the learned Judge held that, notwithstanding the Applicant's assertion that he acted as an agent of the two companies by virtue of his offices as General Secretary and Managing Director respectively, he lacked the requisite legal capacity to institute proceedings or appear before Court on their behalf, in the absence of a valid power of attorney.
11. The Applicant further avers that the High Court found that the Uganda Registration Services Bureau (URSB), in the exercise of its mandate, enjoyed a level of immunity in decision-making such that no cause of action could be sustained against it in the manner the suit had been instituted.
12. It is the Applicant's contention that the High Court proceeded to determine the matter on the basis that he lacked *locus standi* and that the suit had been instituted against a wrong party, without addressing the substantive issues that had been raised before it, and consequently dismissed the suit with costs.
13. The Applicant further contends that the actions and decisions of the High Court, being an organ of the Respondent State, constitute violations of the fundamental and operational principles of the Community enshrined under Articles 6(d) and 7(2) of the Treaty,

particularly the principles of the rule of law, accountability, transparency and access to justice.

14. In particular, the Applicant alleges that:

- i. The decision of the High Court to render its ruling outside the prescribed timeframe was unlawful and inconsistent with the principle of the rule of law;**
- ii. The finding that he could not represent the said companies without a power of attorney or qualification as an advocate unjustifiably restricted his right of access to justice;**
- iii. The holding that the Uganda Registration Services Bureau could not be sued in respect of its decisions was erroneous and shielded a public body from accountability;**
- iv. The failure by the High Court to address the substantive issues agreed upon by the parties amounted to a denial of justice; and**
- v. The dismissal of the suit with costs, premised on the above findings, further compounded the alleged violations.**

15. The Applicant maintains that the foregoing actions, omissions and decisions are unlawful and amount to infringements of the Treaty, and accordingly prays for the following reliefs:

- i. An order annulling the process, actions and decision of the High Court of Uganda in Commercial Division Company Cause No. 11 of 2019 delivered on 10th July 2020;**

- ii. A declaration that the Applicant is competent to institute proceedings and represent Moneylenders Association of Uganda Ltd and MK Financiers Ltd in the courts of Uganda;
- iii. A declaration that the Uganda Registration Services Bureau can be sued in respect of decisions made in the exercise of its statutory mandate;
- iv. A permanent injunction restraining courts of judicature in Uganda from preventing the Applicant from representing the said companies;
- v. General damages for the alleged violations complained of;
- vi. Costs of the Reference;
- vii. Interest at the rate of 6% per annum on the damages and costs awarded from the date of filing the Reference until payment in full; and
- viii. Interest at the rate of 6% per annum on damages allegedly suffered by persons affected by the actions complained of.

E. THE RESPONDENT'S CASE

16. The Respondent's case is set out in the Response to the Reference lodged in Court on 18th September 2020 as well as in the Replying Affidavit sworn by Ms Jessica Chemeri, Deputy Registrar of the High Court of Uganda, Commercial Division, dated 18th October 2024. The Respondent also filed written submissions on 5th November 2025 in support of its case.

17. The Respondent maintains that the decision of the High Court of Uganda in **Commercial Division Company Cause No. 11 of 2019** (*supra*) was lawful, properly reasoned and made in accordance with the applicable laws of Uganda, and did not infringe any provisions of the Treaty, including Articles 6(d) and 7(2).
18. It is further contended that the issues raised by the Applicant, including those relating to *locus standi*, representation of companies, and the suability of the Uganda Registration Services Bureau, were correctly determined by the High Court and fall within the exclusive competence of national courts. In this regard, the Respondent avers that the Applicant, not being an advocate and lacking a power of attorney, was not competent to institute or prosecute proceedings on behalf of the said companies, and that the suit had been improperly instituted.
19. The Respondent thus asserts that the present Reference is, in substance, an attempt to challenge the correctness of the findings and conclusions of the High Court, including the exercise of judicial discretion in determining preliminary objections and dismissing the suit with costs, matters which cannot be impugned before this Court under the guise of alleged Treaty violations.
20. The Respondent states that there is no evidence of any procedural irregularity, miscarriage of justice, or failure to adhere to the fundamental and operational principles of the Treaty. It is contended that the Applicant was accorded a fair hearing before a competent court of law, and that the impugned decision was rendered in accordance with the applicable laws of Uganda. The Respondent further avers that the Applicant's grievance is, in essence, a mere

dissatisfaction with the outcome of the proceedings before the High Court, which does not constitute a basis for intervention by this Court.

21. In addition, the Respondent avers that the Reference does not disclose any cause of action under the Treaty, as it merely invites this Court to sit as an appellate body over a decision of a national court, which is outside the jurisdiction of this Court.

22. Accordingly, the Respondent prays that this Court finds that it lacks jurisdiction to entertain the present Reference and dismisses the same with costs.

F. ISSUES FOR DETERMINATION

23. At the Scheduling Conference held at Arusha on 19th September 2024, the following were framed as issues for the Court's determination:

- i. **Whether this Honourable Court has jurisdiction to entertain this Reference;**
- ii. **Whether the actions of the Respondent's Partner State, through the decision of the High Court of Uganda in Commercial Division Company Cause No. 11 of 2019, violated Articles 6(d) and 7(2) of the Treaty; and**
- iii. **What remedies are available to the Parties.**

G. DETERMINATION OF THE COURT

Issue 1: Whether this Honourable Court has jurisdiction to entertain this Reference

24. The central issue arising at this preliminary stage is whether this Court is properly seized of jurisdiction to entertain a Reference that, in substance, challenges the decision of the High Court of Uganda (Commercial Division) in **Company Cause No. 11 of 2019**.
25. The Respondent raises a preliminary objection challenging the jurisdiction of this Court. It argues that, under Article 30(3) of the Treaty, the Court lacks competence to review or inquire into decisions of national courts, as such matters are reserved to Partner States. The Respondent submits that the Court's jurisdiction is strictly limited to the interpretation and application of the Treaty pursuant to Articles 9(4) and 27(1), and does not extend to appellate or supervisory review over domestic judicial decisions.
26. Relying on the Court's jurisprudence, particularly **Alcon International Ltd vs Standard Chartered Bank of Uganda & Others, EACJ Appeal No. 3 of 2013**, the Respondent contends that the Court has no jurisdiction *ratione materiae* to annul or review national court decisions. It maintains that the present Reference would require the Court to assess the correctness of a decision of the Uganda High Court, including the application of national law, which falls outside its mandate. The Respondent further emphasizes that allowing such jurisdiction would undermine the autonomy of national courts, disrupt the balance between regional and domestic legal systems, and effectively turn this Court into an appellate forum, contrary to the Treaty framework. Accordingly, it urges the Court to decline jurisdiction and dismiss the Reference.
27. In response, the Applicant submits that this Court is properly seized of jurisdiction under Articles 23(1), 27(1) and 30(1) of the Treaty, as

the Reference concerns the legality of actions of a Partner State in light of the Treaty. The Applicant argues that where allegations involve violations of fundamental principles such as the rule of law and access to justice under Articles 6(d) and 7(2), the Court not only has jurisdiction but a duty to examine the impugned actions, even where they arise from decisions of national courts.

28. Citing authorities including **Attorney General of Kenya vs Martha Karua, EACJ Appeal No. 4 of 2021, Democratic Party vs Secretary General, EACJ Appeal No. 1 of 2014** and **Burundi Journalists Union vs Attorney General of Burundi, EACJ Reference No. 7 of 2013**, the Applicant contends that the Court's mandate extends to determining whether acts of Partner States, including those of judicial organs, comply with the Treaty.

29. The Applicant further relies on **Basajjabalaba & Another vs Attorney General of Uganda, EACJ Application No. 9 of 2018**, to argue that actions and decisions of domestic courts may be scrutinized to assess their conformity with Treaty obligations. It is thus submitted that the present dispute, framed as a violation of Treaty principles rather than an appeal against a national decision, falls squarely within the Court's jurisdiction *ratione materiae*. The Applicant accordingly prays that the Court assumes jurisdiction and proceeds to determine the Reference on its merits.

30. The Court has carefully considered the pleadings, the submissions of the Parties, the applicable provisions of the Treaty, and the established jurisprudence of this Court. At the outset, it is necessary to restate that the jurisdiction of this Court flows from Articles 23, 27(1) and 30(1) of the Treaty, which collectively mandate the Court

to ensure adherence to the law in the interpretation and application of, and compliance with, the Treaty.

31. It is equally settled that jurisdiction is foundational. Where a court finds that it lacks jurisdiction, it must immediately down its tools. This principle has consistently guided this Court in determining preliminary objections and jurisdictional challenges, particularly where the nature of the dispute risks drawing the Court beyond its Treaty mandate.
32. The Reference before the Court arises from dissatisfaction with the process, conduct and decision of the High Court of Uganda in **Company Cause No. 11 of 2019** (*supra*). The Applicant contends that the impugned decision was rendered in violation of Articles 6(d) and 7(2) the Treaty, thereby inviting this Court to interrogate both the process and outcome of the national proceedings. The Respondent, on the other hand, raises a jurisdictional objection, asserting that this Court is being improperly invited to sit as an appellate forum over a domestic judicial decision.
33. Beyond the framing of the claim as a Treaty violation, the Court must examine the true character and effect of the Reference. It is not the label attached by the Applicant that determines jurisdiction, but rather the substance of the grievance and, most critically, the nature of the reliefs sought.
34. Upon a careful reading of the Reference, the Court observes that the Applicant seeks, in essence, to impugn, set aside, and obtain pronouncements upon the correctness of the High Court's findings on *locus standi*, procedural propriety, and the conduct of proceedings before it. The Applicant further seeks declarations

which would, in effect, regulate how he may appear and act before national courts.

35. Before delving into the jurisprudence of the Court on the issues before it, it is necessary to first clearly delineate the Treaty parameters of this Court's jurisdiction.

36. The Court's role is stated in Article 23(1) of the Treaty: The Court **“shall ensure the adherence to law in the interpretation and application of and compliance with this Treaty.”** The core jurisdictional clause appears in Article 27(1), which confers upon the Court initial jurisdiction over the interpretation and application of the Treaty, with an express proviso that such interpretative jurisdiction **“shall not include the application of any such interpretation to jurisdiction conferred by the Treaty on organs of Partner States.”**

37. It is clear from the above that the import of these provisions is that the jurisdiction of the Court is neither original nor appellate in respect of domestic judicial determinations.

38. Article 30(1) grants standing (subject to Article 27) to any resident in a Partner State to refer to Court a dispute regarding “the legality of any Act, regulation, directive, decision or action of a Partner State” on the ground that it is unlawful or infringes the Treaty.

39. The Applicant's complaint, as discerned from the pleadings on record, targets judicial reasoning and procedural determinations made in the High Court ruling delivered on 10th July 2020, including, *inter alia*, whether the Applicant could appear and institute proceedings on behalf of the companies without a power of attorney

or being an advocate; whether the Uganda Registration Services Bureau was a proper and suable party; and the consequent dismissal of the underlying cause with costs.

40. The question that arises is whether such a claim properly falls within the interpretive jurisdiction of this Court under the Treaty, or whether it amounts to an impermissible invitation for this Court to exercise appellate or supervisory authority over a national court.

41. This position has been firmly and consistently stated by this Court. It is now a cardinal principle of this Court's jurisprudence that it does not exercise appellate jurisdiction over national courts of the Partner States.

42. In East African Civil Society Organization Forum vs The Attorney General of the Republic of Burundi & 2 Others, EACJ Reference No. 2 of 2015, while examining the issue of whether or not it had jurisdiction to revise, review or quash the decision of the Constitutional Court of Burundi, the Court elaborated at length on its lack of appellate jurisdictional role on decisions of national courts. It had this to say:

“As we have stated elsewhere above, this Court has primacy in the interpretation of the Treaty but that mandate in our considered view does not extend to the interrogation of decisions of other Courts in a Judicial manner such as is being asked of us in the present Reference. An interrogation of the reasons, ratio decidendi and contents of such decisions would necessarily require that we exercise an appellate Jurisdiction over the said decisions which jurisdiction we

certainly do not have. The independence of the Courts of Partner States is a paramount principle of the Rule of Law as envisaged in Articles 6(d) and 7(2) of the Treaty and we cannot in upholding those principles, interfere willy nilly with that independence.”

43. At paragraph 47, the Court continued:

“...The Applicant has submitted in that regard that we should assume jurisdiction to do so in the context of Article 30(1) of the Treaty. Try as we have, we are unable to see any Jurisdiction to reopen decisions of Courts of Partner States and decide whether such decisions are or are not in line with either the Constitution of Burundi or the Agreement or even the Treaty.”

44. This position was further elaborated in **M/S Quick Telecommunications Services vs Attorney General of Tanzania, EACJ Reference No. 10 of 2016**, where the Court rejected the contention that examining judicial conduct for Treaty compliance would convert it into an appellate body, but nonetheless declined to intervene where the grievance properly belonged within domestic legal processes.

45. Similarly, in **Democratic Party vs Secretary General of the East African Community & Others, EACJ Reference No. 2 of 2010**, the Court underscored that its mandate is confined to interpretation and application of the Treaty, not the correction of alleged errors of national Courts. It stated:

“This Court can only “interpret” and “apply” the Treaty under Article 27 and in doing so, adherence to law in the interpretation and application of and compliance with “the Treaty” shall be its guiding principle under Article 23.”

46. On Treaty compliance against appellate review this Court has drawn a careful and principled distinction between impermissible appellate review and permissible Treaty scrutiny.

47. In **Male H. Mabirizi K. Kiwanuka vs The Attorney General of the Republic of Uganda, EACJ Appeal No. 7 of 2020**, the Court reiterated the principle set out in **Sitenda Sebalu vs The Secretary General of the EAC & Others, EACJ Reference No.1 of 2010**, that it does not sit as a further appellate court over national judicial process. That its role is confined to determining whether the impugned judicial process, attributable to a Partner State, violated the Treaty.

48. The Court stated at paragraph 86:

“The procedural decisions of the Supreme Court of Uganda, relating to extensions of time, case management and correction of accidental errors in its judgments fall within its jurisdiction and discretion. The same applies to the Appellant's complaints about Parliamentary procedure, the Speakers' certificate and severance. A decision of the courts or Parliaments of a Partner State on such matters cannot per se constitute a violation of the Treaty. Each case will depend on its peculiar circumstances. We reiterate that this Court is not a super

court established to police institutions of the Partner States on the barest and minutest allegations of infraction of national law. The Appellant did not demonstrate that the procedural rulings and decisions in question, taken individually or collectively, amounted to a denial of justice constituting a violation of the Treaty.”

49. We wholly subscribe to the above position. The rationale underlying the holdings in the matters above is grounded on the institutional design of the Community. National courts remain the primary fora for adjudicating disputes arising under domestic law, including procedural and evidentiary questions.

50. This Court, by contrast, is not constituted as a court of appeal from those courts, but as an international court tasked with ensuring Treaty compliance. It cannot be converted into a forum for correcting alleged errors of fact or law committed by national courts.

51. Applying these authorities to the present Reference, the Applicant challenges the ruling of the Commercial Division of the High Court of Uganda on the basis that it was delivered outside the prescribed time and allegedly occasioned injustice. A careful scrutiny of the pleadings reveals that the Applicant’s grievance is directed primarily at:

- a) the timing of delivery of the ruling,**
- b) the substantive outcome of the decision, and**
- c) the alleged legal errors committed by the learned Judge.**

52. In our considered view, these complaints, however framed, invite this Court to re-examine the merits and procedural propriety of the

High Court's determination. Such an exercise would squarely fall within the realm of an appellate jurisdiction, which this Court does not possess. The proper avenue for redress of such grievances lies within the domestic appellate framework of Uganda, where the Applicant could have challenged the impugned decision before a higher national court.

53. Apparently, the Applicant seeks to circumvent this settled mechanism by couching his dissatisfaction in the language of Treaty violations. This Court must, however, look beyond form and gaze at the substance.

54. To permit litigants to bypass domestic appellate mechanisms and seek refuge before this Court would not only undermine the judicial hierarchy of Partner States but would also distort the carefully circumscribed mandate of this Court under the Treaty.

55. We are mindful, as a matter of principle, that judicial acts of a Partner State may engage that State's responsibility under the Treaty. However, such engagement is neither automatic nor lightly presumed. The threshold is necessarily high, particularly where the impugned act is a judicial determination rendered within the competence of a national court.

56. In this regard, the Court notes that Treaty-compliance responsibility arising from judicial conduct has been confined, in its jurisprudence, to exceptional circumstances such as a manifest denial of justice, bad faith, or a clear and egregious violation of fundamental principles of due process and, in this instant Reference, Treaty violations.

57. The Court therefore accepts, as a general proposition, that the conduct of a Partner State's judicial organs may be attributable to the State for Treaty purposes, and may be examined in an appropriate case to determine compliance with the Treaty.
58. However, the Applicant has not demonstrated that the impugned High Court decision meets this threshold. Rather, the grievances advanced concern the interpretation and application of domestic procedural law, including questions of representation, time limitation, *locus standi*, and the propriety of proceedings—matters that fall squarely within the jurisdiction of national courts and their appellate structures.
59. More importantly, the nature of the reliefs sought is dispositive. The Applicant invites this Court to annul or invalidate the decision and processes of the High Court, and to issue forward-looking directions affecting proceedings before national courts.
60. Such reliefs, by their very character, are not declaratory of Treaty compliance or violation, but corrective of domestic judicial outcomes. They would require this Court to substitute its judgment for that of a higher court to the one that rendered the decision, thereby exercising an appellate or supervisory function, which it does not possess.
61. The Court reiterates that not every alleged error of law amounts to a violation of the Treaty. Even if, *arguendo*, the High Court had misapplied domestic law, the proper avenue for redress would lie within the national appellate structures. To elevate such alleged errors to the level of Treaty violations would be to erase the critical distinction between appellate review and the enforcement of Treaty obligations.

62. In light of the foregoing, the Court finds that the Reference constitutes an impermissible attempt to appeal against a decision of a national court. The Applicant has failed to establish any violation of Articles 6(d) and 7(2) of the Treaty as the impugned decision was a lawful exercise of judicial authority within the domestic legal framework of the Republic of Uganda.

63. Having so found, the Court need not and shall not proceed to examine the substantive allegations of violation of Articles 6(d) and 7(2) of the Treaty.

64. As to costs, rule 127(1) of the Rules provides as follows: **“Costs in any proceedings shall follow the event, unless the Court shall for good reasons otherwise order.”**

65. We have no good reason to depart from this rule. The Reference as presented cannot be taken to be pursuing a public interest objective. It is a suit for personal interests. The Respondent was dragged into Court for no rightful cause and has to be compensated for the costs incurred.

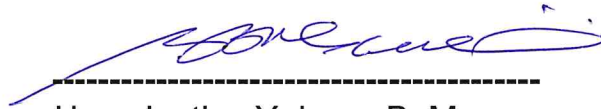
H. CONCLUSION

66. From the foregoing, the Court lacks jurisdiction *ratione materiae* to determine the merits of the Reference.

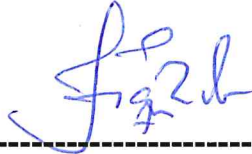
67. Consequently, the Reference is hereby dismissed in its entirety with costs.

68. It is so ordered.

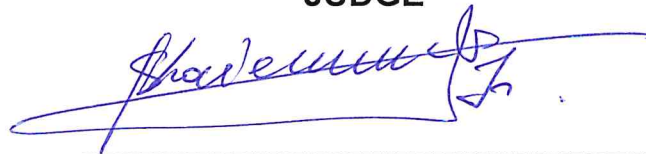
Dated, signed and delivered at Arusha this 31st Day of March 2026.



Hon. Justice Yohane B. Masara
PRINCIPAL JUDGE



Hon. Justice Richard Muhumuza
JUDGE



Hon. Kayembe Ignace Rene Kasanda
JUDGE