

**EAST AFRICAN COURT OF JUSTICE**

**FIRST INSTANCE DIVISION**

**Ruling*:* 23rd July 2020** from **9:30 am**

*(Via Video Conference)*

***Application No. 16 of 2019 (Arising from Reference No. 17 of 2018) The Society of Black Lawyers and the Bandung Conference v Prof. Paul Kiprono Chepkwony & the Attorney General of the Republic of Kenya***

**Application filed*:*** 4th December 2019.

**Articles:** 23(1) & (3) & 40 of the Treaty for the Establishment of the East African Community.

**Rules:** 1(2), 36(1) (2) & (4) of the East African Court of Justice Rules of Procedure, 2013.

**Subject matter:** *Amicus curiae* (friends of the Court).

**On 29th March 2019***, in Application No. 17 of 2018**Prof. Paul Kiprono Chepkwony & the Attorney General of the Republic of Kenya*, an order against the Government of Kenyato provide temporary school facilities to affected pupils was disallowed for reasons in among others that, the pupils suffered no injuries since the Government took appropriate measures to address their educational needs in accordance with Kenyan law.

The Applicant, the Society of Black Lawyers (SBL) and Bandung Conference Kenya, through Justice Donald Peter Herbert, an international jurist of African origin, resident in the United Kingdom seeks to be joined as amicus curiae in *Reference No. 17 of 2018* between *Prof. Paul Kiprono Chepkwony & the Attorney General of the Republic of Kenya.*

It is the Applicant submission that, the Reference raises important questions on the application of Kenya Constitution and the duty of the State to provide for the education of children in Kenya including circumstance of any lawful or unlawful eviction of their parents or guardians and about respect for the rule of law.

The Applicant wishes to be joined in the Reference in order to contribute to the jurisprudence on the freedoms and fundamental right to education of children in view of regional and international standards. The Applicant further states that, adequate representation of the interest Society of Black Lawyers (SBL) and Bandung Conference will be absent without the intervention as amicus curiae and that, the requirements for the joinder as an *amicus curia* as per the Court Rules of Procedure has been met.

The Reference which the Applicant seeks to be joined is pending before the First Instance Division. In that Reference, the Applicant (Prof. Paul Kiprono Chepkwony, 1st Respondent in this Application) is challenging alleged actions of the Republic of Kenya (2nd Respondent herein) of forcefully evicting civilian population from their dwelling places and homes adjacent to Mau forest in alleged cruel, horrifying, degrading, traumatizing and inhuman manner.

In the Reference, Prof. Paul Kiprono Chepkwony alleges that, the eviction of the population subsequently led to the discontinuation of pupils’ schooling in the affected area, a violation of the pupils’ fundamental right to education guaranteed in Article 53 of the Constitution of Kenya, 2010 and thus, a violation of Kenya’s obligations under Articles 6(d) and 7(2) of the Treaty Establishing the East African Community.

*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* [*http://www.eacj.org*](http://www.eacj.org)

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