

**EAST AFRICAN COURT OF JUSTICE**

**FIRST INSTANCE DIVISION**

**Hearing: 13th July 2020** *from 9:30 am*

*(Via Video Conference)*

***Consolidated Reference Nos. 14 of 2017, 6 of 2018 & 6 of 2019 Male H. Mabirizi K. Kiwanuka & 7 Others vs. The Attorney General of the Republic of Uganda***

**References filed:** On 24th November 2017, 18th February 2018 & 3rd May 2020 respectively.

**Articles:** 6(d), 7(2), 8(1) (c), 23, 27 (1), 29 (1), 30(1) (2), 38 and 123 (3) of the Treaty for the Establishment of the East African Community (EAC).

**Rule:** 24 of the EACJ Rules of Procedure, 2013.

**Subject matter:** Matters challenging amendment of Uganda Constitution and/or removal of age limit provision.

In ***Reference No.14 of 2017*** the Applicants accuses the Speaker of Parliament of Uganda in among other things for suspending 24 Members of Parliament on 27th September 2017 during a tabling of the Constitutional Amendment Bill without affording them a right to be heard. The Parliamentarians who opposed the amendment, were dragged outside the House by Special Force Command (CFS) and taken to diverse police stations for detention.

The Applicants asserts that, the fundamental rights of the Parliamentarians and the public in the gallery protected and guaranteed by the Constitution were violated and infringed by the Speaker’s decision of inviting and allowing the CFS to raid and siege Parliament in order to enforce compliance with her orders which the Applicants allege to be unlawful.

They further allege that, the continuation to do business in the House by the Speaker with the other Members of Parliament who had been terrorized and traumatized by the acts of the Security operatives against their colleagues and consequent acts of exclusion of the 24 Members brutally ejected, tortured and treated in a cruel, degrading and dehumanizing manner is in consistent with provisions of the EAC Treaty.

Further, the conduct of the Speaker on the 27th September 2017 fell below legitimate expectations in a Speaker as an accountable leader in a democracy adhering to and upholding the rule of law, democracy, good governance, accountability and transparency in the management of public affairs.

It is the Applicants contention that, the removal of the age limit through the Constitutional Amendment Bill is compromised in favor of the President, who is the only and sole beneficiary and has shown that, one is either in support of the removal and hence on his side or against the removal and hence against him.

The Applicants therefore seek for the following declarations in among others;

1. A declaration that the acts through commission, omission or active and direct or indirect participation of the Speaker of Parliament and the Special Forces Command, in relation to events at Parliament on the 27th of September 2017 are contrary to Articles 6(d), 7(2), 8(1) (c) and 123 (3) (c) of the EAC Treaty.
2. A declaration that the removal of the age limit safeguard and/or amendment of the Constitution to remove the age limit under Article 102 (b) of the Constitution is contrary to Articles 6(d), 7(2), 8(1) (c) and 123 (3) (c) of the EAC Treaty.
3. A permanent injunction restraining the Respondent from continuing to do acts that aggravate the dispute i.e. to consider the Bill to amend the Constitution and consequently proceed to the 2nd and 3rd Reading leading to the enactment of the Constitutional Amendment Act until hearing and final disposal of this Reference.

Whereas in ***Reference No. 6 of 2018***, the Applicants seek *inter alia* for declarations that;

1. The Constitutional (Amendment) (No.2) Act, 2018 enacted by the Parliament of Uganda and assented to by the President of Uganda on 27th December, 2017 violates Articles 6(d), 7(2), 8(1) (c), 30 and 123(3) (c) of the EAC Treaty.
2. The Constitutional (Amendment) (No.2) Act, 2018 and the entire process of presenting before Parliament for debate the Constitutional (Amendment) (No.2) Bill, 2017 for the first, second and third reading resulting in the passing of the Bill and consequently enactment of the Act was fraudulent scheme designed by the Government of Uganda to entrench the incumbent as a life President contrary to and in violation of Articles 6(d), 7(2), 8(1) (c), 30 and 123(3) (c) of the EAC Treaty.
3. The act of Parliament of passing the Bill where Parliament was under siege by the Uganda Peoples Defense Forces and other security agencies who at the same time committed acts of torture and violence against Members of Parliament opposed to the Government and the ruling party (NRM) position of amending the Constitution and enacting the Constitutional (Amendment) (No. 2) Act, 2018 violates Articles 6(d), 7(2), 8(1) (c), 30 and 123(3) (c) of the EAC Treaty.
4. The cumulative acts through commission, omission or active and direct or indirect participation of the Speaker of Parliament in relation to the passing of the Constitutional (Amendment) (No.2) Bill, 2017 and enacting the Constitutional (Amendment) (No.2) Act, 2018 covering the period from 27th September, 2017 to 20th December 2017 are inconsistent with and an infringement of Articles 6(d), 7(2), 8(1) (c), 30 and 123(3) (c) of the EAC Treaty.
5. The act of Parliament continuing with the debate of the Constitutional (Amendment) (No.2) Bill, 2017 and its consequent enacting the Constitutional (Amendment) (No.2) Act, 2018 while *Reference No. 14 of 2017 between Hon. Winfred Kiiza & 6 Others v the Attorney General of Uganda* was within their knowledge known to be pending resolution before the East African Court of Justice was inconsistent and contrary to Articles 6(d), 7(2), 8(1) (c), 38(2) and 123(3) (c) of the EAC Treaty.

In ***Reference No. 6 of 2019***, the Applicant pray in among other things for;

1. Declarations that several actions, directives and/or decisions of all the three organs of Government and State of the Republic of Uganda in conceptualizing, processing, pursuing and upholding of the Uganda Constitution (Amendment) Act 2018 are unlawful and/or are an infringement of the provisions of the Treaty for the Establishment of the East African Community, particularly, the actions of;
2. Curtailing and undermining Uganda citizens’ participation in their constitutional amendment process.
3. Securing an amendment of the Constitution through violence and/or threat.
4. Not complying with strict procedures contained in the Uganda Constitution, Act of Parliament and Rules of Procedure of Parliament.
5. Flouting the strict pre-assent mandatory conditions and procedures.
6. An order annulling the Republic of Uganda Constitution (Amendment) Act 2018 on account of being conceptualized, initiated, processed, enacted and assented to in contravention of the fundamental and operational principles of the East African Community.
7. A permanent injunction against the Government and State of the Republic of Uganda from implementing the Constitution (Amendment) Act 2018 on account of being conceptualized, initiated, processed, enacted and assented to in contravention of the fundamental and operational principles of the East African Community.
8. General damages to the Applicant plus costs and interest thereof, of 25% per annum from the time of filing the Reference till payment in full.

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