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**EACJ LAW REPORT**  
**SUBJECT INDEX**  
**2005 - 2017**

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Citation: EACJLR



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**Hon. Sitenda Sebalu v The Secretary General of EAC & Ors [2005-2011] EACJLR 160, Ref. No.1 of 2010**

Jurisdiction- No exhaustion of local remedies required - Non Retrospective Treaty application - The doctrine of res judicata - whether the court had jurisdiction to entertain the reference - Whether the failure by the Kenya Government to pay the claimants' terminal benefits contravened Treaty provisions.

**Emmanuel Mjawasi & Ors v The AG of Kenya [2005-2011] EACJLR 183, Ref. No.2 of 2010**

Jurisdiction- Invoking internal laws- Preliminary objection - The principle of pacta sunt servanda- The Vienna Convention on the Law of Treaties.

**Mary Ariviza & Anor v Attorney General of Kenya & Anor [2005-2011] EACJLR 268, Appl. No. 3 of 2010**

Interpretative Jurisdiction - Interference in internal functioning of a political party - No connection between Treaty principles and Minister's actions – Matter reserved for national court - Time

**Bonaventure Gasutwa & Ors v Attorney General of Burundi [2015-2017] EACJLR 95, Ref. No. 13 of 2014**

Adherence to the African Charter - Application of relevant international instruments - EAC Partner States to act in good faith - Jurisdiction- Deposit of declarations in the African Court- Whether the First Instance Division erred in holding that it had no jurisdiction to interpret the African Charter.

**Democratic Party v The Secretary General of EAC & Ors [2012-2015] EACJLR 559, Appeal No.1 of 2014**

Jurisdiction - Applicant's knowledge - Whether the case was filed within prescribed time

**Audace Ngendakumana v The Attorney General of Burundi [2015-2017] EACJLR 84, Ref. No. 11 of 2014**

Review jurisdiction on judgments - No rehearing of an appeal - Evident mistake or error on the face of the record- Finality of litigation and certainty of the law required

**Angella Amudo v The Secretary General of EAC [2015-2017] EACJLR 412, Appl. No. 4 of 2015**

Jurisdiction – Rule of law- Consideration of internal laws- Independence of national courts - Whether the Court could revise, review, quash decisions of national courts -Unlawfulness - Cause of action - Time fixed for filing cases

**East African Civil Society Organizations’ Forum v Attorney General of Burundi [2015-2017] EACJLR 245, Ref. 2 of 2015**

Jurisdiction -Exhaustion of domestic remedies not a condition precedent for claims- Locus standi- Whether the Reference was time barred - No continuing breach of the Treaty outside two months  
**Malcom Lukwiya v Attorney General of Uganda & Anor [2015-2017] EACJLR 314, Ref. No. 6 of 2015**

Jurisdiction - Effects of Treaty amendment - Whether the Respondent had locus-standi- Court’s exclusive jurisdiction in Treaty interpretation and invalidation of Community Acts, directives, regulations, actions - Election of members reserved for National Assemblies - Proceedings before national courts – Admission of late submissions

**The Attorney General of URT v Anthony C. Komu [2015-2017] EACJLR 460, Appeal No.2 of 2015**

Jurisdiction - Vicarious liability- Decisions of the Judge Ethics Committee - Whether the complaint was properly before the Court - Rule of law

**M/S Quick Telecommunications Services v Attorney General of URT [2015-2017] EACJLR 642, Ref. No. 10 of 2016**

Jurisdiction *ratione personae* - Concordant intention of State Parties- Enforceable rights of legal and natural persons - Restriction on locus standi - Good faith test - Literal interpretation - Broad, purposive interpretation - Appropriate Treaty effect - Whether Appellant was a resident in a Partner State - Principle of *animus revertendi* not applicable - Intratextual review - Undifferentiated attribution of State action - Disproportionate access to justice - Standard of proof - Public interest litigation

**Manariyo Désiré v The Attorney General of Burundi [2015-2017] EACJLR 978, Appeal No. 1 of 2017**

Statutory tests of an appeal - Record of Appeal must contain a judgment, order or ruling - Whether the appeal was competent - Jurisdiction *suo motu*

**Johnson A. Omonyokol v Attorney General of Uganda [2015-2017] EACJLR 1065, Appeal No. 4 of 2017**

## LIMITATION PERIOD

Continuous chain of actions - Continuing Treaty infringements – No mathematical computation of time - Unlawful detention continues until it is stopped - Whether the Reference was time-barred.

**Omar Awadh & Ors v The AG of Kenya & Ors [2005-2011] EACJLR 361, Appl No. 4 of 2011**

Earliest knowledge of the acts complained of applies in the computation of time - Improper raising of preliminary objections- No continuing Treaty violation- States' responsibilities to their citizens and residents - Whether the learned Judges erred in deciding that they had jurisdiction to hear the Reference and it was not time barred

**Attorney General of Kenya v Independent Medical Legal Unit [2005-2011] EACJLR 377, Appeal No.1 of 2011**

Limitation period - The concept of legal continuing violations not applicable - Whether the Court was vested with the jurisdiction to entertain the Reference.

**Hilaire Ndayizamba v The Attorney General of Burundi & Anor [2012-2015] EACJLR 49, Ref No. 3 of 2012**

Damages for illegal occupation of premises – Destruction of property- Limitation of time- Whether the acts complained of contravened the Treaty.

**Georges Ruhara v The Attorney General of Burundi [2012-2015] EACJLR 490, Ref. 4 of 2014.**

No exhaustion of local remedies is required - The onus is on the Appellant to show the Respondent's knowledge of the date of arrest and detention.

**The Attorney General of Rwanda v Plaxeda Rugumba [2012-2015] EACJLR 204, Appeal No1 of 2012**

Continuing violation - Unlawful Detention- Legal certainty- Limitation of time- Time started to run from the date of arrest and detention- Whether the First Instance Division erred in law in computing time.

**Attorney General of Uganda & Anor v Omar Awadh & Ors [2012-2015] EACJLR 214, Appeal 2 of 2012**

## **PERMANENT INJUNCTION**

Application of Court rules - Fact and Law Jurisdiction- Preliminary Points of law - Permanent Injunction - The reasons for a judgment - Trans-boundary consultations - Notice of Motion - Procedural irregularities- Reference - Whether a permanent injunction could be granted against a Partner State - Whether the First Instance Division failed to properly weigh the Appellant's points of law and submissions -Whether a Notice of Motion or a Reference ought to be filed.

**The AG of Tanzania v African Network for Animal Welfare (ANAW), [2005-2011] EACJLR 395, Appeal No.3 of 2011**

## **PRELIMINARY OBJECTION**

Failure to protect property rights - Jurisdiction - Preliminary objection procedure- Whether Burundi's Minister of Home Affairs contravened the Treaty through inaction.

**Venant Masenge v The Attorney General of Burundi [2012-2015] EACJLR 136, Ref. No 9 of 2012**

Preliminary Objection – Production of evidence - Whether an Order of the Court could be ousted by section 20 of the EALA (Powers and Privileges) Act – Witness summons

**Rt. Hon. Margaret Zziwa v The Secretary General of EAC [2012-2015] EACJLR 499, Ref No. 14 of 2014**



Appellate Division cannot re-open the evidence - Appellate power is distinct from a power of review- Error apparent on the face of the record – Grounds for a review include a glaring omission or a patent mistake- Whether the Appellate Division should exercise its power of review in this case.

**Independent Medico Legal Unit v Attorney General of Kenya [2012-2015] EACJLR 164, Appl No.2 of 2014**

Preliminary objection – Amici curiae- Deponents affidavit must disclose sources of information – Whether parts of an affidavit were defective - Scholarly interest distinguished from unresearched, rights-based agitation- Brief restricted to matters within Applicants mandate  
**Media Legal Defence Initiative & Ors v Ronald Ssemuusi (Deceased) [2015-2017] EACJLR 216, Appl. No. 4 of 2015**

Procedural irregularity - Whether a real preliminary objection was raised in the Trial Court- Whether privileged evidence was admissible - Pleadings differ from evidence - Record of Appeal - Orders distinguished from judgments and decrees- Procedural propriety on interlocutory decisions - Decisions of Partner States' highest courts merely persuasive  
**The Secretary General of EAC v Rt. Hon. Margaret Zziwa [2015-2017] EACJLR 519, Appeal No. 7 of 2015**

Preliminary objection - Points of law to be heard and determined first -Acts or omissions leading to procedural irregularities – Whether the supporting affidavit was defective – Competence of an application- Use right of appeal on interlocutory sparingly  
**Attorney General of Uganda v Media Legal Defence Initiative (MLDI) & Ors [2015-2017] EACJLR 742, Appeal No. 3 of 2016**

Preliminary objection - Sovereignty - Partner States of the Community-Whether the Peoples' Revolutionary Republic of Zanzibar has locus standi- Jurisdiction *ratione materiae* and *temporis* - Principle of non-retrospective application of Treaties – Cause of action – Time limitations  
**Rashid S. Adiy & Ors v Attorney General of Zanzibar & Ors [2015-2017] EACJLR 632, Ref. No. 9 of 2016**

Preliminary objection prior to Scheduling Conference - Locus-standi- Whether Village Councils have legal capacity to institute cases - Legal representation of a body corporate  
**Ololosokwan Village Council & Ors v Attorney General of URT [2015-2017] EACJLR 812, Appl. No. 15 of 2017**

Preliminary objection - Judicial discretion - Evidential proof of questions of law and facts – Whether Community services are established by Summit are facts requiring evidence - Doctrine of emanation of a State is a question of fact  
**Pontrilas Investments Ltd v Central Bank of Kenya & Anor [2015-2017] EACJLR 950, Ref. No. 8 of 2017**

## **PRELIMINARY RULINGS**

A preliminary ruling is binding *erga omnes* - Justiciability – The EACJ's interpretation of the Treaty takes precedence over the interpretation by national courts- Uniformity in EAC Treaty interpretation.

**The AG of Uganda v Tom Kyahurwenda [2012-2015] EACJLR 450, Case Stated No.1 of 2014**

## PRESS FREEDOM

Amici Curiae's limited role - Freedom of the press- Implementation of judgment- Restrictive Press laws- Reasonability, rationality and proportionality tests- Revelation of sources of information - Whether provisions of Burundi Press Law were inconsistent with the Treaty.

**Burundian Journalists Union & Ors v The AG of Burundi [2012-2015] EACJLR 299, Ref. No. 7 of 2013**

Proscription of newspaper - Lawful rational, proportionate, reasonable restrictions on freedom of expression-Public interest of peace and good order - Whether the Minister's banning order complied with the Treaty - Principles of accountability and transparency- Opportunity to respond - Cogent reasons

**Managing Editor, Mseto & Hali Halisi Publishers Ltd v Attorney General of URT [2015-2017] EACJLR 614, Ref. No. 7 of 2016**

Freedom of press and of expression - Whether certain sections of Media Services Act contravened the Treaty – The three-tier proportionality test - Clarity of law – Vague undefined restrictions – The legitimate aim of criminal defamation - Seditious offences - Minister's prohibition powers to be exercised judiciously - Principle of res judicata not applicable – No exhaustion of domestic remedies required - Time of enactment

**Media Council of Tanzania & Ors v Attorney General of URT [2015-2017] EACJLR 864 Ref. No. 2 of 2017**

## PROCEDURE

Cause of action – Partner State's discretion - The concept of Justiciability- Triable issues- Whether the delay by the Respondents to deposit their declarations on Protocol on the African Charter infringed the Treaty- Whether the EAC Secretary General had a duty to compel or supervise Partner States.

**Democratic Party v The Secretary General of EAC & Ors [2012-2015] EACJLR 32, Ref 2 of 2012**

Cause of action – Damages for closure of business- Lack of Jurisdiction – Locus standi - No final and enforceable decision.

**Benoit Ndorimana v The Attorney General of Burundi [2012-2015] EACJLR 259, Ref. 2 of 2013**

Cause of action – Disbarment from the Roll of Advocates, Burundi Bar Association - Due process of law - The Secretary General's investigative responsibilities – Right to a fair trial - Travel restrictions- Whether the 2nd Respondent neglected his responsibilities under the Treaty.

**East Africa Law Society v The AG of Burundi & Anor [2012-2015] EACJLR 466, Ref. No.1 of 2014**

Costs - Interested party - Misjoinder of parties - Withdrawal of Reference.

**M/S Quality Chemical Industries Ltd & Anor v Godfrey Magezi [2012-2015]EACJLR 530, Appl No. 8 & 9 of 2014**

Whether witness summons should issue - Special leave to produce Assembly documents -The principle of separation of powers cannot be circumvented - Voluntary witnesses need no compulsion

**Hon. Dr. Margaret N. Zziwa v The Secretary General of EAC [2015-2017] EACJLR 535, Appl. No. 1 of 2016**

Cause of action in East African Community law - Whether there was a live dispute - Onus of proof- Inherent power of the Court

**Ismael Dabule & Ors v Attorney General of Uganda [2015-2017] EACJLR 583, Ref. No. 5 of 2016**

## **RULE OF LAW**

Rule of law - Procurement- Burden of proof - Non production of bilateral agreement- Whether a Memorandum of Understanding was inconsistent with the Treaty - Disregard of national court orders - Jurisdiction beyond declaratory orders- Cross appeal - Remedies- Costs

**Henry Kyarimpa v Attorney General of Uganda [2015-2017] EACJLR 160, Appeal No. 6 of 2014**

Rule of law - Good governance – Whether the Court had jurisdiction -Whether the Reference was time barred- Principle of non-retroactivity not applicable - Non-compliance with lawful court orders of national courts- Damages- Pecuniary obligations

**James A. Koroso v The Attorney General of Kenya [2015-2017] EACJLR 361, Ref. No. 12 of 2015**

Rule of law- Jurisdiction - Legality of banning Applicants' activities - EAC Secretary General's role, functions, duties - Cause of action - Remedies

**Le FORSC & Ors v Attorney General of Burundi & Anor [2015-2017] EACJLR 656, Ref. No. 12 of 2016**

Rule of law - Good governance - Republican decree – Transparency- Due process- Whether removal from judicial service complied with municipal laws- State sovereignty versus Treaty obligations - Cause of action

**Hon. Justice Malek M. Malek v The Minister of Justice of RSS [2015-2017] EACJLR 958, Ref. No. 9 of 2017**

## **SEPARATION OF POWERS**

Actions inconsistent with the Treaty-East African Legislative Assembly mandate- Invalid actions - Private Members Bill - Sectoral Council on Legal and Judicial Affairs- Prospective annulment- Whether decisions taken by the Sectoral Council were null and void or binding on EALA.

**Calist Mwatela & Ors v East African Community, [2005-2011] EACJLR 1, Appl. 1 of 2005**

Interim orders on the removal of the Speaker of EALA - Reputational injury - Separation of powers between organs of the Community.

**Mbidde Foundation Ltd & Anor v Secretary General of EAC & Anor [2012-2015] EACJLR 521, Appl No. 5 of 2014**

Good governance - Separation of powers - Special Courts - Whether the law guaranteed an independent, impartial judicial system – Appointment of Judges- Parties' right to trial - Right of appeal - Effective administration of justice -Jurisdiction - Time  
**Baranzira Raphael & Anor v The Attorney General of Burundi [2015-2017] EACJLR 109, Ref. No. 15 of 2014**

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Discretion to hear oral application - Stay of proceedings pending appeal - Whether the Court had discretion to hear an oral application and to grant the stay.

**Omar Awadh & Ors v The AG of Kenya & Ors [2005-2011] EACJLR 367, Appl. No.4 of 2011**

Injury can be compensated by damages - Stay of proceedings may be granted where there are multiple proceedings pending in both divisions of the Court.

**Attorney General of Uganda v East African Law Society & Ors [2012-2015]EACJLR 189, Appl 7 of 2012**

Court's inherent powers - Notice of appeal expressed as an intention to file an appeal - Stay of orders pending appeal - Security for costs inapplicable to Partner States and EAC Secretary General.

**The Attorney General of Uganda v The East African Law Society & Anor [2012-2015] EACJLR 379, Appl No.1 of 2013**

Stay of proceedings pending interlocutory appeal – Whether citation of incorrect law is fatal – Distinction between a notice of appeal and an appeal - Remedies deduced from pleadings - Defective frivolous application - False affidavit evidence an abuse of court process

**The Secretary General of EAC v Rt. Hon. Margaret Zziwa [2015-2017] EACJLR 378, Appl. No. 12 of 2015**

### STATE RESPONSIBILITY

Attribution of governmental authority – Codified customary international law- State responsibility for decentralised governance entities- Supplementary rules of interpretation- Whether the acts complained of were those of a Partner State or Institution of the Community.

**Union Trade Centre Ltd (UTC) v The AG of Rwanda [2012-2015] EACJLR 344, Ref No.10 of 2013**

Rule of law -Good governance - International review of domestic courts' decisions distinguished from national appellate review- Cause of action- Interface between international and domestic judicial organs- Decisions of apex national courts- Whether the Constitutional Court's decision violated the Treaty - Onus of proof- Whether the impugned decision depicted outrage, bad faith or willful dereliction of judicial duty- Entrenching a harmonized judicial approach to EAC Treaty obligations

**East African Civil Society Organizations' Forum v Attorney General of Burundi [2015-2017] EACJLR 260, Ref. No. 2 of 2015**

State responsibility for conduct of judicial organs -Whether the Court had jurisdiction to consider decisions of Supreme Courts of Partner States - Appellate review distinguished from

international review of the decisions of national courts - Principles of judicial independence & impartiality - Disregard for due process - Property rights -Limitation period

**Manariyo Désiré v Attorney General of Burundi [2015-2017] EACJLR 339, Ref. No. 8 of 2015**

International responsibility attributable to States - State liability for acts and omission of domestic courts – Whether the Trial Court erred in disavowing jurisdiction -Judicial review powers - Testing Treaty compliance - Declarations or orders on substantiated Treaty infringements mandatory -Cause of action- Appropriate remedies

**East African Civil Society Organizations' Forum v AG of Burundi & Ors [2015-2017] EACJLR 752, Appeal No. 4 of 2016**

Jurisdiction *ratione personae*, *ratione materiae* - State responsibility for wrongful judicial acts- Rule of law - Consideration of internal laws - Interrogation of decisions of national courts - Whether there was unlawful unequal treatment in dismissal from employment - Burden of proof, fully conclusive evidence - Administration of justice- Compliance with procedural rules- Circumstances warranting a departure from the general rule on costs

**Eric K. Makala v Attorney General of Rwanda [2015-2017] EACJLR 848, Ref. No.1 of 2017**

Rule of law - Property rights - The principle of supremacy of the law – Jurisdiction - Whether a citizen not resident in East Africa has *locus standi* - Whether the principle of *res judicata* applies - State responsibility - International review of national court decisions - Balance of probabilities – Legal burden of proof – Proprietary interest in land - *Bona fide* purchaser- Deponent Advocate's affidavit defective - Discretion on costs

**Niyongabo Theodore & Ors v Attorney General of Burundi [2015-2017] EACJLR 890, Ref. No. 4 of 2017**

## TAXATION OF COSTS

Contempt of court - Delayed payment of taxed costs - Council of Ministers and Sectoral Committee on Legal and Judicial Affairs to implement the Judgment of the Court - Whether the Council of Ministers and the Sectoral Committee on Legal and Judicial Affairs infringed the principles of good governance by changing the Draft Protocol to Operationalise the Extended Jurisdiction of the EACJ - Whether Respondent's failure to pay the taxed costs was an act of contempt.

**Hon. Sitenda Sebalu v The Secretary General of EAC [2012-2015] EACJLR 120, Ref No. 8 of 2012**

Consolidation of cases - Discretion- Extension of time for filing bills of costs - Formal notification of withdrawal of instructions to an advocate- No inordinate delay - Whether the right to file a bill of costs was forfeited.

**Hon. Sam Njuba v Hon. Sitenda Sebalu [2012-2015] EACJLR 246, Appl 1 & 2 of 2012**

Balancing between the costs claimed and the services rendered - Discretion of a Taxing Officer- Principles governing instruction fees- Applicant has the onus to show the application of wrong principles.

**Alcon International Ltd v Standard Chartered Bank of Uganda & Ors [2012-2015] EACJLR 611, Ref No.1 of 2014**

Taxing Officer's discretion - Whether there was sufficient reason to interfere with the award - Whether errors of law or principle caused injustice - Excessive or inadequate compensation - Fair notice of issues in pleadings before hearing

**Godfrey Magezi v National Medical Stores [2015-2017] EACJLR 394, Taxation Ref. No. 1 of 2015**

Instruction fees - Categories of legal practitioners- Different legal regime regulating State Attorney's - Fair reimbursement of costs - When to interfere in discretion in a Taxing officer's discretion

**The Inspector General of Government v Godfrey Magezi [2015-2017] EACJLR 677, Taxation Ref. No. 1 of 2016**

Taxation - Whether Bill of Costs was properly filed - Consultancy agreement for lead counsel- Whether there was a remuneration agreement

**UHAI EASHRI v Ojiambo & Company Advocates [2015-2017] EACJLR 688, Taxation Ref. No. 2 of 2016**

Taxation - Whether there was sufficient reason for extension of time – Judicial discretion Purposive approach - Statements in an affidavit are evidence - Misdirection in law- Decisions of municipal courts have no precedential authority

**Godfrey Magezi v National Medical Stores [2015-2017] EACJLR 722, Appeal No. 2 of 2016**

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