

APPEAL NO. 5 OF 2022 THE ATTORNEY GENERAL OF THE UNITED REPUBLIC OF TANZANIA v. FREEMAN A. MBOWE & OTHERS

Coming up for Hearing: 20th February 2023.

Appeal filed: on 10th October, 2022

Treaty Provision: Article 35A of the Treaty for the Establishment of the East African Community, 1999

Subject matter: Treaty interpretation; Articles 6(d), 7(2) and 8(1)(c) 27(1), 30(1) & 38(2) of the Treaty. Rules 1(2) & 24

The Appellants filed two References in the First instance Division; Reference No 3 of 2019 & Reference No. 4 of 2019 challenging the Political Parties (Amendment), Act No. 1 of 2019 which was enacted by the Parliament of the United Republic of Tanzania on 29th January, 2019 and assented to by the President on 13th February, 2019.

The References in the trial Court, by consent of parties and approval of the Court were consolidated during the hearing. The Applicants were seeking for a declaration that the provision of Section 3 which amends Section 4 of the principal Act in its subsections violates the fundamental and operational principles codified in Article 6(d) and 7(2) of the Treaty; A declaration that Section 3 which amends Section 4 of the Principle Act, in its subsection are of no force of law for contravening the Treaty amongst other orders.

The Appellants in their submissions in the Reference denied that the amendments contravened the Treaty and asked the Court for a declaration that the cost of the Reference be borne by the Appellant herein.

The Respondents herein/Applicants in the Reference contended the said Act, which amended the Political Parties Act, Cap. 258 of the Laws of Tanzania, constitutes an unjustified restriction of democracy, good governance and freedom of association which are fundamental and operational principles of the Treaty; to wit, the principle of democracy. Rule of law, accountability, transparency and good governance. They claimed they violated Articles 6(d), 7(2) and 8(1)(c) of the Treaty.

In determining the Reference, the Court found that some provisions of the Political Parties (Amendment Act), No. 1 of 2019 violate Articles 6(d), 7(2) and 8(1)(c) of the Treaty for the Establishment of the East African Community. The Court directed the Respondent/Appellant herein to take such measures as are necessary to bring the said Act into conformity with the Treaty. Both parties were ordered to bear their own costs.

Dissatisfied with the decision, the Appellants have filed an Appeal to the Appellate Division of the Court, urging the Court to find that the decision by the trial Court in holding that the amendments to Political Parties (Amendment), Act No. 1 of 2019 contravened the Treaty.

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>

Contact: Registrar, East African Court of Justice, P.O. Box 1096 Arusha, Tanzania Tel: +255 27 2506093 Fax: +255 27 27 2509493 Email: eacj@eachq.org