

Reference No. 39 of 2020 Center for Food and Adequate Living Rights (CEFROHT) Limited & 3 others V. The Attorney General Republic of Uganda, The Attorney General of The United Republic of Tanzania and The Secretary General of The East African Community

Coming up for hearing on: 5th April, 2023

Reference filed on: 6th November 2020

Articles: Articles 5(3)(c), 6(d) & 7 (2), 8 (1)(c), 71(1) (d), 101, 111(1)(b) & (d), 114(1) & (2), 105(2), 112, 114, 116, 120 (c) of the EAC Treaty, Articles 2, 3, 4, 6(a), (e), (c), 12 and 13 of the Protocol for Sustainable Development of Lake Victoria Basin to the EAC Treaty (2003), Articles 24, 25, 31, and 40(3) of the Protocol on Environment and Natural Resource Management to the EAC Treaty; and

Rules: Rule 25 of the EACJ Rules of Procedure 2019

Subject matter: Environment preservation dispute.

The Applicants allege that the act of signing of the Host Government Agreement by the 1st Respondent with the East African Crude Oil Company Limited and the Intergovernmental Agreement between the 1st and 2nd Respondent to build a pipeline that goes through protected areas which has adverse impacts on the livelihoods, biodiversity, climate change and social economic aspects is a violation of the provisions of the EAC Treaty and Protocols therein.

The Applicants also allege that the signing of the two agreements without a certificate of approval of the Environmental and Social Impact Assessment is a violation of the EAC Treaty and Protocols therein. Moreover, that the signing without notification, submission, and approval of the environmental and Social Impact Assessment by the 3rd Respondent and the Council of Ministers violates the provisions of the EAC law because the project has deleterious environmental and ecological effects

The Applicants state that the 3rd Respondent, the Secretary General of the East African Community failed to discharge his legal obligation under the Treaty of undertaking, whether on his own initiative or otherwise of such investigations, collection of information or verification of matter affecting the community that appears to merit examination.

The Applicant therefore seeks declaration by the Court that the actions of the Respondents infringe the Treaty, the Protocol for sustainable development of Lake Victoria Basin to the EAC Treaty and The Protocol on Environmental and Natural Resource and Natural Resource Management to the EAC Treaty.

The 1st Respondent, the Attorney General of the Republic of Uganda contends that prior to the signing of the Host Government Agreement on the project an environment and social impact assessment was conducted and approved by the National Environment Management Authority

of Uganda. He also contends that the Protocol on Sustainable development on L. Victoria Basin does not require the submission of the environment and social assessment impact report to the 3rd Respondent and or approval of Council of Ministers before signing of the Agreements between the 1st and the 2nd Respondents

The 1st Respondent further contends that the Reference raises no matters for interpretation of the EAC Treaty, is time barred and cannot be adjudicated on by this Honorable Court hence should be dismissed with costs.

The 2nd Respondent, the Attorney General of United Republic of Tanzania states that the Applicants were aware of the EACOP project and on several occasions attempted to challenge the EACOP project in different forums.

He further states that, prior to the signing of the agreement an environment and social impact assessment was carried out and approved by the relevant authority in which case the 2nd Respondent had the Certificate of ESIA issued by the National Environmental Management Council (NEMC) and Human Rights Impact Assessment (HRIA) before implementation of the said project.

The 2nd Respondent therefore prays that the entire Reference be dismissed with costs for want of merit as well as jurisdiction and that it is time barred. He also seeks a declaration that the EACOP project is in compliance with the EAC Treaty, Protocol on Environment and Natural Resources Management and the Protocol for Sustainable Development of Lake Victoria Basin. The 3rd Respondent, The Secretary General of the East African Community represented by Counsel to the Community states that the signing of the agreements related to the project of building a pipeline that allegedly goes through protected areas was entirely between two Governments in exercise of their sovereign rights and was a properly informed decision and therefore, there is no cause of action against the third Respondent. That he should be expunged from the proceedings as he has no case to answer. He therefore prays that the Reference against him be dismissed with costs.

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