

**PUBLIC INTEREST REFERENCES FILED BY THE EAST AFRICA LAW SOCIETY
AT THE EAST AFRICAN COURT OF JUSTICE**

1. Application No.01/2006: **The East Africa Law Society and the Law Society of Kenya V. Prof. Peter Anyang' Nyong'o & 10 Others.**

The East Africa Law Society filed this application to be allowed to participate as *amicus curiae* or alternatively as an intervener in **Reference No. 01/2006; Prof. Anyang' Nyong'o & 10 Others V. The Attorney General of the Republic of Kenya and 5 others.** The Applicants in the Reference were challenging the process by which the representatives of the Republic of Kenya to the East African Legislative Assembly (EALA) were nominated, stating that the process was incurably and fatally flawed in substance, law and procedure hence contravening provisions of Article 50 of the Treaty for the Establishment of the East Africa Community.

In its ruling, the Court granted the East Africa Law Society leave to appear as *amicus curiae* and allowed the Law Society of Kenya to join EALS if it so desired.

The matter went up to the Appeal Court which upheld the decision of the Court of 1st Instance. In its decision, the Court declared that the rules of election applied by the Kenya National Assembly infringed Article 50 of the Treaty establishing EAC to the extent of their inconsistency with it. It was declared further that the National Assembly of Kenya did not undertake an election within the meaning of Article 50 of the Treaty, and that the election rules in issue infringe the same Article.

<http://eacj.org/?cases=prof-peter-anyang-nyongo-and-others-vs-attorney-general-of-kenya-and-others>

<http://eacj.org/?cases=eacj-application-no-1-of-2006>

[Download the judgment **HERE.**](#)

2. Reference No. 03/2007: **The East Africa Law Society, the Law Society of Kenya, the Tanganyika Law Society, Uganda Law Society and The Zanzibar Law Society V. The Attorneys General of the Republic of Kenya, United Republic of Tanzania, Republic of Uganda and the Secretary General of the East African Community.**

This case was filed to challenge the process that led to the amendment of the Treaty for the Establishment of the EAC without following the procedures created under the Treaty. The Court was invited to investigate whether the said amendments were carried out in good faith; and whether they would strengthen the Community.

In its Judgment delivered on 1st September 2008, the Court held that, lack of participation in the impugned amendment process was inconsistent with the spirit and intent of the Treaty in general, and that in particular, it constituted an infringement of principles and provisions of Article 5(3) (g) and 7(1) (a) of the Treaty. The purpose for which Article 26 was amended also constituted infringement of Article 38 (2) of the Treaty. The Court however declined to invalidate the amendments and declared that the holding on the requirement of involvement of people in the Treaty amendment process shall have prospective application.

<http://eacj.org/?cases=eacj-application-no-9-of-2007>
[Download the judgment HERE](#)

3. Reference No. 01/2011: **The East Africa Law Society Vs. The Secretary General of the East African Community.**

This case was filed to challenge various provisions of the Customs Union and Common Market Protocol that were deemed to be in Contravention of the EAC Treaty.

In its judgment delivered on 14th February 2014, the Court held that the dispute settlement mechanism created under the Customs Union and Common market Protocols does not exclude, oust or infringe upon the interpretive jurisdiction of EACJ. Further, the impugned provisions of both Protocols are not in contravention of or in contradiction with the relevant provisions of the Treaty and therefore any submission that the Court lacks jurisdiction over disputes arising out of the interpretation and application and implementation of the Protocols cannot be sustained.

<http://eacj.org/?cases=the-east-african-law-society-vs-the-secretary-general-of-the-east-african-community>
[Download the judgment HERE.](#)

4. Reference No. 02/2011: **The East Africa Law Society Vs. The Attorney General of the Republic of Uganda and the Secretary General, EAC.**

This Reference was filed in 2011 challenging the actions of the agents, employees, servants, the military and police of Uganda who violently disrupted groups Ugandan Citizens on peaceful walk to work demonstrations. While the citizens were exercising their fundamental rights to demonstrate against high costs living, fuel and transport by walking to work, they were violently disrupted and beaten by the police who used batons, rubber bullets, guns with live ammunition, water cannons and tear gas canisters against them. This resulted in injury and death. The police had been duly informed.

Judgment is yet to be delivered.

5. Reference No. 03/2011: **The East Africa Law Society Vs. the Attorneys General of the Republic of Uganda and Kenya and the Secretary General of the East African Community.**

This Reference was filed challenging the acts of the agents of the Respondent nations of arresting suspects of terrorism in Kenya and handling them to the Government of Uganda in contravention of the provisions of Articles 2(6), 12(1),(a), 21(1), 25(c) and 29 of the Constitution of the Republic of Kenya; sections 7,8,9 and 10 of the Extradition (Common Wealth Countries) Act Chapter 77 of the Laws of Kenya; and Articles 5, 6(d) and 7(2) of the Treaty for the Establishment of the East African Community as well as Articles 3,4,6 and 7(1) of the Charter on Human and Peoples Rights.

Judgment was delivered on 4th September, 2013 with the Reference being struck out for having been filed out of time.

[Download the judgment HERE](#)

6. Reference No. 01/2014: **The East Africa Law Society V. The Attorney General of the Republic of Burundi and the Secretary General of the East African Community.**

The Reference was filed on 17th February 2014 challenging the system of Justice and Governance in Burundi for being in contravention of Articles 6(d), 7(2), 11, 27, 29, 30, 38, 67(3) (d), 71, 143, 146 and 147 of the Treaty for the Establishment of the East Africa Community following removal of Mr. Isidore Ruffyikiri the President of the Burundi Bar Association from the Roll of Advocates and travel ban after he made a statement criticizing the government of Burundi.

On the 15th of May 2015, the Court gave a decision declaring that the procedure adopted and employed by the Prosecutor General to disbar Mr. Isidore Ruffyikiri was in breach of the right to a fair trial and therefore a violation of the rule of law principle enshrined in Articles 6(d) and 7(2) of the Treaty. Further, the Court declared that the procedure adopted and the decision taken by the Prosecutor General of the Anti-Corruption Court of Burundi to impose a travel ban on Me. Isidore Ruffyikiri infringed upon and was in contravention of the rule of law principle embodied in Articles 6(d) and 7(2) of the Treaty.

The Court also issued an order directing the Secretary General of the East African Community to immediately operationalize the Task Force set up on 15th January 2014 to investigate alleged violations of Treaty provisions by the Republic of Burundi.

<http://eacj.org/?cases=east-africa-law-society-vs-the-attorney-general-of-the-republic-of-burundi>

[Download the judgment HERE](#)

7. Application No. 09/2009: **Application to enjoined as Amicus Curiae/Intervener in the request for an Advisory Opinion by the East Africa Community Council of Ministers (Application No. 1/2008)**

The East Africa Community Council of Ministers had requested for Advisory Opinion vide Application No. 1/2008 and the East African Law Society applied to be allowed to participate in the advisory opinion as Amicus Curiae, and or intervener as provided for under Article 40 of the Treaty for the Establishment of the East African Community and rule 36 of the East African Court of Justice.

On the ruling given on 13/2/2009, the application was allowed.

[Download the ruling HERE](#)

8. Reference No. 7 of 2014: *The East Africa Law Society V. The Secretary General of the East African Community*.

EALS challenged the failure by the office of the EAC Secretary General to take action through implementation of the EAC Council of Ministers' directive to two EAC Partner States - the United Republic of Tanzania and the Republic of Rwanda - to resolve the issue of Rwandan citizens who were expelled from the Kagera region of Tanzania in 2013. That by the failure there was a breach of the Secretary Generals statutory obligations.

The Court held that by failing to submit to the Council of Ministers the report of the fact-finding mission that had been established after a visit to the region affected by the alleged irregular expulsions under Article 71(1) (d) & (1) of the Treaty then the Secretary General had failed to discharge his mandate. It was ordered that the Respondent submits to the meeting of the Council of Ministers for consideration, the findings and recommendations of the fact-finding mission that had been established visited the Kagera Region of the United Republic of Tanzania affected by the alleged irregular expulsion of immigrants.

<http://eacj.org/?cases=east-african-law-society-vs-the-secretary-general-of-the-east-african-community>

[Download the judgment HERE](#)