IN THE EAST AFRICAN COURT OF JUSTICE
AT KIGALI
FIRST INSTANCE DIVISION

(***Coram***: *Yohane B. Masara, PJ; Richard Wabwire Wejuli, DPJ; Richard Muhumuza, Gacuko Leonard & Kayembe Ignace Rene Kasanda; JJ)*

REFERENCE NO. 22 OF 2020

ALI NJUMBA .... APPLICANT

VERSUS

THE ATTORNEY GENERAL OF
THE REPUBLIC OF UGANDA ....RESPONDENT

7th MARCH 2025

RULING OF THE COURT

A. INTRODUCTION

1. On 28th July 2020, Ali Njumba (hereinafter, "the Applicant") alongside one Adam Kyomuhendo and Indigenous Peoples Strategic Forum, filed this Reference against the Attorney General of the Republic of Uganda (hereinafter, "the Respondent"). The Reference was brought under the provisions of Articles 5(1), (3)(a) and (d), 6(d), 7(1)(a) and (2), 8(1)(a) and (c), 23, 27, 30, 38(2), 39, 111, 114, 119(c) and (f), 123(3)(c) and 130(1) and (4) of the Treaty for the Establishment of the East African Community (hereinafter, "the Treaty") and Rules 4, 25 and 27 of the East African Court of Justice Rules of the Court, 2019 (hereinafter, "the Rules").

2. Initially, the Reference had three Applicants; namely, Ali Njumba, Adam Kyamuhendo and Indigenous People Strategy Forum. On 26th November 2021, Mr Adam Kyomuhendo, acting on behalf of himself and the Indigenous Peoples Strategy Forum, notified the Court under Rule 61 of the Rules that they were withdrawing and or discontinuing their claim in the Reference, leaving Ali Njumba as the sole applicant in the Reference.

3. The Reference impugns the Respondent's action of purportedly allowing Messrs Hoima Sugar Limited, a private company, to clear part of the Bugoma Tropical Natural Forest in order to establish a commercial scale sugarcane plantation without a prior sought and approved Environmental and Social Impact Assessment (ESIA) from the Respondent's National Environment Management Authority (NEMA).

4. The Reference is supported by the Affidavit of Ali Njumba, the Applicant, affirmed in Kampala on 27th July 2020.

5. The Applicant presented himself as an adult male Ugandan citizen, thus a resident of the Republic of Uganda. For the purposes of this Reference, the Applicant's address of service is c/o M/S Parkhill Advocates, 2nd Floor, Suite C4, *Plot 49, Ntinda Road, Kampala.*

6. The Respondent is the Attorney General of the Republic of Uganda, sued on behalf of the Government of the Republic of Uganda in the capacity of the principal legal advisor of the Government of Uganda.

B. REPRESENTATION

7. At the trial, the Applicant was represented by Mr Adam Kyomuhendo, learned Advocate. The Respondent was represented by Mr Geffrey Atwine, Ag Commissioner, Civil Litigation; Ms Suzan Apita, Senior State Attorney and Mr Hillary Ebila, State Attorney, all from the Attorney General's Office, Republic of Uganda.

C. THE CASE FOR THE APPLICANT

8. The Applicant's case is contained in the Statement of Reference lodged in Court on 28th July 2020, the Amended Statement of Reference dated 17th October 2024 and in the supporting affidavits of the Applicant dated 27th July 2020 and 14th October 2024, respectively.

9. It is the Applicant's case that the Reference is aimed at preserving the ecological and cultural integrity of the Bugoma Natural Forest which is located both in Hoima and Kikuube Districts in Uganda.

10. The Applicant alleges that the acts complained of concern the action or inaction of the Respondent to permit a private investor, Hoima Sugar Limited, to destroy Bugoma natural forest for sugar cane plantation.

11. It is further alleged that prior to establishing the sugar plantation, the said Hoima Sugar Limited did not do a prior and adequate consultation with the Banyoro people and or local population; instead, it went ahead and signed a lease agreement with the Kingdom of Bunyoro-Kitara, which owns the land in trust for the people of that Kingdom, to develop a sugar plantation.

12. That, Hoima Sugar Limited did not carry out an ESIA prior to beginning the works thereby destroying very large parts of the treasured forest, and that NEMA as well as the Ministry of Environment allowed Hoima Sugar Limited to carry on and conduct its sugar project without the said developer first conducting an ESIA, contrary to the Respondent's international legal obligation.

13. That, the project, if materialised, will have a permanent and deleterious effect on culture as well as human rights of the indigenous population. Further, that the project will also permanently destroy the ecosystem, scenic quality or beauty, religious integrity, sacredness, inviolability, biodiversity and or environmental integrity of the whole area in ways that monetary compensation cannot adequately atone.

14. The Applicant further alleges that, soon after filing the Reference on 28th July 2020 and serving the same to the Respondent on 13th August 2020, the Respondent, on 14th August 2020 through NEMA,

contemptuously and illegally issued a belated Environmental and Social Impact Assessment Certificate (ESIA certificate) for the impugned project without prior and adequate consultation with the local population. That, the Applicant wrote to NEMA asking them to revoke the ESIA certificate but it took about two years for the same to be revoked.

15. It is, thus, the Applicant's case that the stated actions or inactions of the Respondent violate the Treaty; specifically, Articles 5(1), (3)(a) and (d), 6(d), 7(1)(a) and (2), 8(1)(a) and (c), 23, 27, 30, 38(2), 39, 111, 114, 119(c) and (f), 123(3)(c) and 130(1) and (4) and Articles 8, 14, 16, 17(2) & (3), 21, 22 and 24 of the African Charter on Human and People's Rights.

16. The Applicant therefore prayed for:

    a) **A DECLARATION and ORDER that the Bugoma Natural Rainforest is of supreme or inviolable, environmental, cultural and religious value to the indigenous population(s) and or the Kingdom of Bunyoro – Kitara;**

    b) **A DECLARATION that the Respondent actively aided, abetted and or is transparently complicit in the impugned and or illegal activities of Messrs Hoima Sugar Limited – to destroy the Bugoma Natural Forest and that it, through NEMA's impugned omissions and actions, violated its obligations under domestic law including the National Environment Management Authority Act, Act No. 5 of 2019, National Environment (Environment and Social Assessment) Regulations 2020, international**

environmental law and the dictates of Articles 5(1) and (3)(a) and (d), 6(d), 7 (1)(a) and (2), 8(1)(a) and (c), 23, 27, 30, 38(2), 39, 119(c) and (f), 123(3)(c), 130(1) and (4) of the Treaty for the Establishment of the East African Community (EAC Treaty) and Articles 8, 14, 16, 17(2) and (3), 21, 22 and 24 of the African Charter of Human and Peoples Rights which this Court has power to apply;

c) A DECLARATION that the Environment and Social Impact Assessment certificate which was issued to Hoima Sugar Limited by the Respondent's National Environment Management Authority on 14th August, 2020 was issued contrary to Articles 5(1) and (3)(a) and (d), 6(d), 7(1)(a) and (2), 8(1)(a) and (c), 23, 27, 30, 38(2), 39, 119(c) and (f), 123(3)(c), 130(1) and (4) of the Treaty for the Establishment of the East African Community (EAC Treaty) and Articles 8, 14, 16,17(2) and (3), 21, 22 and 24 of the African Charter on Human and Peoples Rights which this Court has power to apply;

d) A DECLARATION that in its said complicity, the Respondent State is responsible for the violation of the rights to consultation, to natural resources, religion and the cultural identity of the people of Bunyoro Kitara clearly enshrined in the Treaty for the Establishment of the East African Community and Articles 8, 14, 16, 17(2) and (3), 21, 22 and 24 of the African Charter on Human and Peoples Rights which this Court has the mandate to apply – within the frameworks of the EAC Treaty;

e) A DECLARATION that the activities of Messrs Hoima Sugar Limited of destroying parts of Bugoma Forest and in their place establishing sugar plantations are illegal and violate Articles 5(3)(a) and (c), 8(1)(a) and (c), 38(2), 39, 111, 114, 119(c) and (f), 123(3)(c), 130(1) and (4) of the EAC Treaty – as well as Articles 2, 17, 21 and 22 of the African Charter;

f) A DECLARATION that the Respondent is responsible for violating the environmental human rights of the people of Bunyoro in terms of Articles 5(3)(a) and (c), 8(1)(a) and (c), 38(2), 39, 111, 114, 119(c) and (f), 123(3)(c), 130(1) and (4) of the EAC Treaty and the African Charter;

g) A DECLARATION that the impugned activities of the Respondent State constitute, comprise and or are tantamount to discrimination of the Banyoro people contrary to the EAC Treaty – and the African Charter;

h) AN ORDER directing the Respondent State to monetarily compensate the Banyoro people and the affected populations for the suffering, anxiety, pain and distress caused by violation of their rights to prior consultation, non-discrimination, cultural and religious identity and environmental integrity in such terms or manner appointed by Court;

i) AN ORDER appointing an independent assessor on compensation within a specified period of time to calculate or ascertain the amount of compensation and or royalties due to be paid and or affected by the

Respondent State for violations in a manner and time Court appoints;

j) AN ORDER that Messrs Hoima Sugar Limited removes from the land comprising Bugoma forest all workmen, tools, factory -implements or cordons employed by the company to implement the sugar project;

k) AN ORDER that the Respondent restores – within specified time and as much possible – the cultural and ecological integrity of parts of Bugoma forest it has caused destruction of out of its complicity with and or inaction of Messrs Hoima Sugar Limited and unequivocally guarantees non-repetition of the intrusion and violation(s) in future in further effect and implementation of the findings of the Respondent's NEMA as above indicated and gives specific timelines for the Respondent to report to Court on the progress of the implementation of the restoration orders above stated;

l) AN ORDER that the Respondent publicly apologises for the violations;

m) A PERMANENT INJUCTION restraining the Respondent State and Hoima Sugar Limited from proceeding with the sugarcane plantation project and or factory and land that is part or parcel of Bugoma Forest;

n) A STRUCTURAL INTERDICT or ORDER directing and ordering that this Honourable Court – even after final judgement – remains seized of this matter for a specified

period of time for the purposes(s) of supervising the implementation of its judgement – and orders, hereinabove sought;

o) **AN ORDER for general damages to the Applicants flowing from the disturbance, inconvenience, anxiety or anguish caused by the actions complained about in this Reference in terms as Court may determine;**

p) **AN ORDER awarding the costs of the Reference to the Applicants; and**

q) **ANY OTHER ORDERS OR REMEDIES that this Court may see fit to give.**

D. THE CASE FOR THE RESPONDENT

17. The Respondent's case is contained in the Respondent's Response to the Reference filed on 28th September 2020, in the Amended Response to the Reference dated 6th December 2024 and in the Respondent's Affidavits deponed by Ojambo Bichachi, a State Attorney, filed in Court on 28th September 2020 and 6th December 2024 respectively.

18. The Respondent contends that the matters raised by the Applicant are time barred and therefore offend the Treaty.

19. The Respondent also contends that it has not in any way violated the Treaty as alleged by the Applicant and that the Government of Uganda does not own the private forest cover which has always been the property of the Omukama of the Kingdom of Bunyoro – Kitara, a cultural institution recognised by the laws of Uganda.

20. The Respondent further states that M/s Hoima Sugar Limited is a private limited liability company and is the registered proprietor of the leasehold land comprised in Leasehold Register Volume HQT 887 Folio 12 Plot No. 216 Buhaguzi Block 2 at Kyangwali in Hoima District. That, the lease was granted by the Omukama of Bunyoro-Kitara Kingdom and that the title held by M/s Hoima Sugar Limited was not land within Bugoma Central Forest reserve; further, that the land at Kyangwali is an ancestral site forming part of the properties restituted by the Government of Uganda to the Kingdom of Bunyoro-Kitara.

21. The Respondent also denies the allegations that it allowed Hoima Sugar Limited to carry on the impugned project without conducting an ESIA; further, that it cannot be held responsible for the actions of NEMA, which is an independent body corporate.

22. Thus, the Respondent prays that the Reference be dismissed with costs.

E. ISSUES FOR DETERMINATION

23. In the Scheduling Conference held in Arusha on 17th September 2024, the Court, while allowing the Applicant to lodge an amended Statement of Reference, directed both the Applicant and the Respondent to file written submissions, along with their amended pleadings on:

> **Whether the Court has jurisdiction to deal with the Reference; specifically, whether the Reference is time barred.**

24. We deem it imperative to consider the issue above as its determination will have a great bearing on whether to continue or not to continue with determination of the Reference on its merit.

F. COURT'S DETERMINATION

ISSUE: Whether the Reference is Time Barred

25. The issue whether the Reference was filed outside the prescribed time is contained in the Respondent's Responses to both the initial Statement of Reference and the Amended Statement of Reference.

26. We note from the submissions by Counsel for the Applicant that he is not in agreement with the procedure the Court has taken in this regard. He desired that the Court strikes out the Respondent's Response to the Statement of Reference for failure to serve the Applicant on time.

27. In our view, however, the procedure we have adopted is within the mandate of the Court as, whether the Parties herein defied Rules or otherwise cannot take precedence over determination of the Court's jurisdiction. Any procedural lapse by any of the Parties can only be dealt with after the Court satisfies itself of its jurisdiction to deal with the Reference, or the Amended Reference for that matter.

28. We therefore hereunder consider the issue.

i. The Applicant's submissions

29. The Applicant strenuously maintained that the Reference was filed within the time frame prescribed by Article 30(2) of the Treaty; that is, within two months.

30. Referring to Paragraphs 1 to 11 of the Affidavit in support of the Statement of Reference, Mr Kyomuhendo submitted that the Applicant came to know of the impugned actions of M/s Hoima Sugar Limited sometimes in January 2020. That, soon thereafter, on 21st January 2020, the Applicant wrote to the Executive Director of NEMA for clarification on whether Hoima Sugar Limited had conducted the mandatory ESIA.

31. Mr Kyomuhendo went on to state that, the Applicant did not receive a response to the letter. That, the Applicant wrote a second letter on 6th February 2020 which was only responded to on 1st July 2020, confirming that no prior ESIA had been done but that Hoima Sugar Limited had submitted a report which NEMA was considering.

32. That as the Reference was filed on 28th July 2020, it was filed within the time prescribed by Article 30(2) of the Treaty. According to Counsel, the operating and crystallising event constituting the cause of action in this Reference is NEMA's letter of 1st July 2020.

33. According to Mr Kyomuhendo, the jurisprudence of this Court provides that only affidavit evidence, not pleadings, is considered in computing time. He made reference to a number of decisions of this Court; namely, **Attorney General of Burundi vs Secretary General of the EAC, EACJ Appeal No. 2 of 2019; Union Trade Centre Limited (UTC) vs the Attorney General of the Republic of Rwanda, EACJ Appeal No. 1 of 2015** and **Secretary General of the EAC vs Rt. Hon. Margreth Zziwa, EACJ Appeal No. 7 of 2015** to back up his position.

ii. **The Respondent's Submissions**

34. Submitting on the issue of time limitation, Counsel for the Respondent prefaced their submissions by outlining the reliefs sought in the Reference. That, from the reliefs sought, the Reference was filed outside the two months limitation and thus the Court has no jurisdiction to entertain the Reference in its merit.

35. Counsel for the Respondent urged the Court to note that the alleged violations started in 2016 or thereabout, making it impossible to comprehend the Applicant's assertions that he only learnt of the same in 2020 when he wrote a letter and received a response from NEMA, an agency of the Respondent.

36. That, as the Applicant averred that the violations of the Treaty and other instruments arose from the action of leasing and clearing of the forests in 2016; by filing the Reference in 2016, the Applicant was out of time for almost four years. Counsel for the Respondent made reference to the decision in **the Attorney General of the Republic of Uganda & Anor vs Omary Awadh & 6 Others, EACJ Appeal No. 2 of 2012** which states, *inter alia*, that:

> **"The starting time of an act complained of under Article 30(2) is not the day the act ends, but the day it is first effected. Therefore, the two months limitation period under Article 30(2) started to run from the day that the arrest and detention were effected."**

37. Counsel also made reference to the decision in **the Attorney General of the Republic of Kenya vs Independent Medical Legal**

Unit, EACJ Appeal No. 1 of 2011 which likewise detailed how computation of time limitation ought to be made.

38. On the instant Reference, Counsel for the Respondent argued that the cause of action arose in 2016 when the Kingdom of Bunyoro-Kitara entered into a 99-year lease agreement for their land with Hoima Sugar Limited and not in July 2020 when the Respondent's agent wrote to the Applicant informing them about the status of ESIA.

iii. **The Court's Determination of the Issue**

39. As earlier stated, the Court deemed it imperative to satisfy itself on whether the Reference herein was filed within the prescribed time.

40. We have to determine whether the Reference, having been filed on 28th July 2020, was within the time prescribed by Article 30(2) of the Treaty. Indeed, if we realise that the matter before us was filed outside the time stipulated in Article 30(2) of the Treaty, we will down our tools and will not be in a position to consider the merits or otherwise of the allegations contained in the Amended Statement of Reference. This is because time limitation is a jurisdictional issue.

41. This Court has on numerous occasions stated that jurisdiction is sacrosanct. Without it, it cannot portend to exercise any of the powers bestowed upon it by the Treaty. In the case of **Attorney General of the United Republic of Tanzania vs African Network of Animal Welfare, EACJ Appeal No. 3 of 2011**, the Court stated:

> **"Jurisdiction is a most, if not the most, fundamental issue that a Court faces in any trial. It is the very foundation upon**

which the judicial edifice is constructed; from which springs the flow of the judicial process. Without jurisdiction, a Court cannot take even the proverbial first Chinese step in its judicial journey to hear and dispose of the case."

42. The above decision is just one of the many decisions by this Court where the Court has categorically stated that it considers determination of the issue of jurisdiction paramount. It is the first and fundamental question that we determine before going into the merits or otherwise of the matter before us.

43. In the case of **<u>The Attorney General of the United Republic of Tanzania vs Anthony Calist Komu, EACJ Appeal No. 2 of 2015,</u>** this Court delineated three types of jurisdictions: *ratione personae, ratione materiae* and *ratione temporis*. It explained them as follows:

"Lack of *ratione personae* would arise where one of the parties is devoid of the requisite capacity or *locus standi* to appear before a court. On the other hand, court's *ratione materiae* may be questioned on the basis of the invoked subject matter, an international court having no *ratione materiae* to try a matter where the treaty or convention under which it derives its mandate does not grant it jurisdiction over designated actions. In the case of the Treaty for the Establishment of the East African Community, such *ratione materiae* is outlined in Articles 30, 31 and 32 thereof. *Ratione temporis*, on its part, refers to time-frame prescribed for the institution of cases in a court."

44. This Court's jurisdiction *ratione personae* and *ratione materiae* have not been questioned in this Reference. We do hold that the Applicant, being a resident within the Partner States of the Community has *locus standi* before this Court. Equally, the subject matter of the Reference is an alleged violation of the Treaty against which this Court is vested with jurisdiction to determine. It is only the jurisdiction regarding the time frame, commonly referred to as time limitation or jurisdiction *ratione temporis* that is in question.

45. Article 30(2) of the Treaty provides:

> **"The proceedings provided for in this Article shall be instituted within two months of the enactment, publication, directive, decision or action complained of, or in the absence thereof, of the day in which it came to the knowledge of the complainant, as the case may be."** (Emphasis added)

46. To satisfy the Court that the Reference was made within time prescribed under Article 30(2) of the Treaty, the Applicant has to succinctly state in the Reference the date when the decision or action complained of took place or when it came to his knowledge.

47. The Appellate Division of this Court, while dealing with the issue of computation of time in **The Attorney General of the Republic of Kenya vs Independent Medical Legal Unit** (*Supra*) held that time would start to run **"two months after the action or decision was first taken or made."** This position was reaffirmed in the case of **The Attorney General of the Republic of Uganda & Another vs Omar Awadh & 6 Others** (*Supra*) where it was held that **"the**

starting date of an act complained of under Article 30(2) is not the day the act ends, but the day it is first effected".

48. In the latter case, the Court went further to state as follows:

> **"The principle of legal certainty requires strict application of the time-limit in Article 30(2) of the Treaty. Furthermore, nowhere does the Treaty provide any power to the Court to extend, to condone, to waive, or to modify the prescribed time limit for any reason (including for 'continuing violations')."** (Emphasis added)

49. As stated above, the Applicant, through his Counsel, maintains that the Reference was filed within the prescribed time, the same having been filed on 28th July 2020. The Respondent's Counsel on the other hand opposes this assertion and asserts that the Reference is out of time as the cause of action arose in 2016 when the private investor, M/s Hoima Sugar Limited entered into a lease agreement with Omukama of Bunyoro-Kitara over the land the subject of this Reference.

50. According to the submissions by Counsel for the Applicant, the Reference is within the prescribed period as it falls under the exception of the two months underlined above; that is, the Applicant came to know of the impugned acts by the Respondent when he received a response to his letter on 1st July 2020.

51. We have examined the pleadings and the evidence in support and against the Statement of Reference. We are in agreement with Counsel for the Respondent that the starting point against which the Applicant bases his claims has to be the leasing out of the land to

the private developer. This was done in 2016 as indicated by the Statement of Reference and the affidavit of the Applicant.

52. The Applicant has argued that this Court should not consider the pleadings in assessing whether the Reference was filed on time. That only evidence, in this case the affidavit in support of the Reference, should be the determining document for the Court's consideration. We do not entirely agree with Counsel for the Applicant in that regard. The Court considers pleadings in its determination of a number of things, including time aspect and the cause of action. Parties are generally bound by their pleadings. This position has been reiterated by this Court in a number of decisions including in **Ismael Dabule & 1004 Others vs The Attorney General of the Republic of Uganda, EACJ Appeal No. 1 of 2018** and **Christopher Serafino Wani Swaka vs The Attorney General of the Republic of South Sudan, EACJ Application No. 31 of 2022.**

53. The Applicant, in his Statement of Reference and in the affidavit in support does not state that he was not aware of the lease agreement entered by Hoima Sugar Limited and the owners of the said land. In fact, the Applicant attached copies of Judgment and Ruling of the Courts of Uganda relating to the very land that is subject of this Reference. These are **National Forestry Authority vs The Omukama of Bunyoro and 2 Others, Civil Suit 0031 of 2016** which declared the land to be lawfully owned by the Omukama and Hoima Sugar Limited on April 25, 2019, and Court of Appeal decision in **National Forestry Authority vs the Omukama of Bunyoro and 2 Others, Civil Application 266 of 2019 arising**

from Misc. Civil Application No. 255 of 2019 decided on 3rd December 2019.

54. The above decisions are embedded in the Applicant's case before this Court and were referred to in the two letters by the Applicant to the Executive Director, NEMA dated January and February 2020. Invariably, the knowledge of the Applicant about the lease agreement and ownership of the disputed land cannot be questioned.

55. The Applicant's Counsel appear to have belittled some of the Applicant's prayers and selected failure of M/S Hoima Sugar Limited and NEMA to conduct an ESIA as the trigger point of the cause of action. It is the Applicant's submissions that the process of clearing the protected forest was done without an approved ESIA. The Respondent is faulted for acquiescing or facilitating the private investor in conducting the impugned illegal activities. This information, according to the Applicant's Counsel was not within the knowledge of the Applicant until he received the reply letter from NEMA on July 1, 2020.

56. We are unable to agree with the Applicant in this regard. We have examined the contents of the letters by the Applicant and that of NEMA, we are satisfied that the letter by NEMA cannot be the point of knowledge of the Applicant as envisaged by the exception to the two months limitation under Article 30(2) of the Treaty. We find nothing in the letter by NEMA which suggests that M/s Hoima Sugar Limited had not conducted an ESIA. We reproduce part of the contents of the said letter here under:

"...This is to let you know that the <u>Report was submitted</u>, it is currently being reviewed by the Authority, in consultation with the relevant lead Agencies." (Emphasis added)

57. We take the letter to connote that an ESIA Report was available but that it was under review. Thus, the prominence made by the Applicant on the importance of the letter is rather astounding. It is also intriguing to impute 'failure to conduct an ESIA' in the contents of the said letter.

58. We are satisfied that the Applicant was aware of the alleged actions, if any, by the Respondent earlier than 1st July 2020. That, if he was not aware of the same at the time of the signing of the lease agreement, he became aware of the same during or immediately after the filing and decisions of the High Court and the Court of Appeal of Uganda in the cases cited above.

59. Furthermore, the fact that the Applicant took the initiative of writing to NEMA on 21st January 2020 and 6th February 2020 imputes knowledge by the Applicant of the disputed actions. It is not disputed that the Applicant did not do anything regarding the failure by NEMA to respond to his letter until July 28, 2020 when he filed the Reference. If we were to agree with him that the cause of action was dependent on the response from NEMA, that would mean that the current Reference was not going to be filed at all had NEMA decided to remain quiet. This, in our view, cannot be the proper utilisation of the exceptions to Article 30(2) of the Treaty.

60. From the foregoing, we are satisfied that this Reference was filed outside the time prescribed by Article 30(2) of the Treaty.

61. That delay strips this Court of the jurisdiction *ratione temporis* to hear and determine the Reference on its merits. As we have said hitherto time and again, this Court has no power to extend the time limited by the Treaty.

62. Lack of jurisdiction *ratione temporis* strips this Court of the legal basis to exercise its jurisdiction *ratione materiae*. We have to down our tools. The rest of the issues cannot be canvassed any further as doing so would be going against the express Treaty provisions.

63. On the question of costs, Rule 127(1) of this Court's Rules provides that costs shall follow the event unless the Court, for good reason, decides otherwise. We find no good reasons to depart from the general rule.

G. CONCLUSION

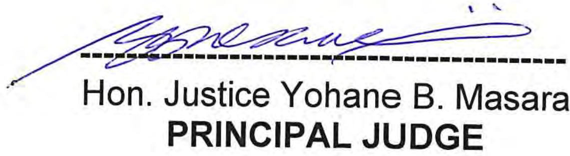
64. For the foregoing reasons, this Court lacks jurisdiction to determine the Reference on its merits.

65. The Reference is hereby dismissed in its entirety for being time barred.

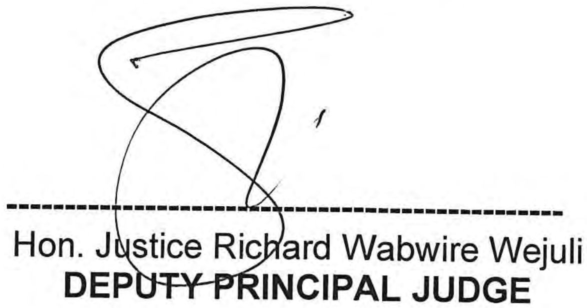
66. The Applicant shall pay costs to the Respondent.

67. It is so ordered.

Dated, signed and delivered at Kigali this 7th day of March 2025.



Hon. Justice Yohane B. Masara
PRINCIPAL JUDGE



Hon. Justice Richard Wabwire Wejuli
DEPUTY PRINCIPAL JUDGE

Hon. Justice Richard Muhumuza
JUDGE

Hon. Justice Dr Leonard Gacuko
JUDGE

Hon. Kayembe Ignace Rene Kasanda
JUDGE