



PUBLIC STATEMENT - FOR IMMEDIATE RELEASE

East African Court of Justice Rules on Public Interest Litigation and Legislative Process in Tanzania

Legal and Human Rights Centre (LHRC), Pan-African Lawyers Union (PALU), Tanzania Human Rights Defenders Coalition (THRDC), Centre for Strategic Litigation (CSL), and the Tanganyika Law Society (TLS) jointly filed References No. 25 and No. 27 of 2020 before the East African Court of Justice (EACJ) – First Instance Division, challenging several provisions of the **Written Laws (Miscellaneous Amendments) Act No. 3 of 2020**. The Applicants argued that various amendments introduced by the Act were inconsistent with the Treaty for the Establishment of the East African Community (EAC Treaty).

In Reference No. 25 of 2020, the Applicants challenged Section 7 of the impugned Act, which amended **Section 4(2) and 4(3) of the Basic Rights and Duties Enforcement Act (BRADEA)**. The amendment restricted the right to bring public interest litigation to only those who were personally affected and extended immunity to certain public officials. The Applicants submitted that these restrictions undermined access to justice, equality before the law, and key principles of democracy, rule of law, good governance, accountability, and transparency as protected under the EAC Treaty.

In Reference No. 27 of 2020, the Applicants challenged additional amendments introduced through Sections 33, 35, 37, 45, 48 and 49 of the Act. These provisions empowered the Attorney General to revise and translate laws without oversight, expanded immunities for judicial officers, and required that top state officials including the President, Vice President, Prime Minister, Speaker, Deputy Speaker and the Chief Justice could only be sued through the Attorney General. The Applicants contended that these amendments weakened checks and balances, accountability mechanisms, and equality before the law, thereby violating the EAC Treaty.

On 27 March 2026, the EACJ delivered its judgment. The Court affirmed that it has jurisdiction to hear cases involving human rights issues so long as the Applicants demonstrate how the impugned actions violate the EAC Treaty. The Court further held that Sections 4(2) and 4(3) of BRADEA, as amended by Section 7 of the Act, were inconsistent with Articles 6(d), 7(2) and 8(1)(c) of the EAC Treaty. The Court found these amendments disproportionate, unconstitutional in effect, and harmful to the principle of equality before the law as well as the protection afforded through public interest litigation. The Court held that Sections 4(4) and 4(5), also arising from Section 7,

were consistent with the Treaty. The EACJ decision also aligns with the decision of the Tanzania Court of Appeal delivered on 13 June 2025 in the case of Onesmo Olengurumwa v Attorney General (Civil Appeal No. 134 of 2022) [2025] TZCA 587, which challenged Sections 4(2), 4(3), 4(4), and 4(5) of the Basic Rights and Duties Enforcement Act (BRADEA). The Court of Appeal held that the amendments were unconstitutional. The Court specifically stated that with the provisions of Sections 4(2) and 4(3) of the Basic Rights and Duties Enforcement Act remaining part of the law, the Constitution remains exposed to abuse and violation with no effective mechanism for its protection by individuals.

Regarding the amendments challenged in Reference No. 27 of 2020, the Court found that Sections 33, 35, 37, 45, 48 and 49 did not violate the EAC Treaty, noting that these provisions serve legitimate purposes and meet the required proportionality standard. The Court also observed that enacting laws under a certificate of urgency is generally acceptable; however, in this instance, the State failed to demonstrate that any genuine emergency existed to justify fast-tracking the Act. This failure was deemed disproportionate and inconsistent with the obligations under the EAC Treaty.

The Court declared that Sections 4(2) and 4(3) of BRADEA, as amended by Section 7 of the impugned Act, are inconsistent with the EAC Treaty and ordered the Government of the United Republic of Tanzania to amend or repeal the offending provisions within six months. Each party was ordered to bear its own costs.

Our general observations

That the impugned Act is itself a continuation of a trend of legislative and policy amendments, most of which are enacted under the Certificate of Urgency, That have severely constricted the space for citizens of Respondent to exercise their rights to information, opinion, expression, assembly, or association, this include the removal of live coverage of parliamentary proceedings by the public and private media, the Electoral and Postal Communications(radio and Television Broadcasting Content) Regulations), political parties Amendment Acts, Written laws (Miscellaneous Amendment Act, the Electric and Postal Communications (sim card registration) Regulations, The Electronic and Postal Communications (On line Content) Regulations,.

The Reference concern a blatant violation of Articles 6(d),7(2) and 8(1) (c) of the Treaty; Article 3(1),7(1) and 13 of the African Charter on Human and Peoples` Rights, and all other international instruments to which the Respondent is a party.

The violations committed by the Respondent against the Applicants are violations of the constitution and national laws of the Respondent`s that include Article 4 of the constitution on separation of powers and Article 13 of the constitution on equality before the laws, wherefore the Applicants prays for declaration and Orders against the respondents that; the provisions of sections 33,35,37,39,41,45,48, and 49 of the impugned Act violates the principles of rule of law, accountability, good governance, and right to an effective remedy by

barring suits against certain public officials as provided for under Articles of the EAC Treaty.

We welcome this landmark decision, which upholds the spirit and importance of public interest litigation as a vital tool for safeguarding the rights and interests of society. The judgment emphasizes core values of constitutionalism, accountability, and democracy in the East African region.

Our call

We also urge the Government of Tanzania to comply fully with the Court's orders and to ensure that future lawmaking processes respect the principles of inclusiveness, transparency, and the rule of law.

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