



February 25, 2025

**FOR IMMEDIATE RELEASE
KIGALI, KAMPALA, NAIROBI & DODOMA**

**‘TASK FIRST INSTANCE COURT TO HEAR EACOP CASE ON ITS MERITS’
LAWYERS ASK JUDGES AT THE EAST AFRICAN COURT OF JUSTICE**

The Appellate Division of the East African Court of Justice (EACJ) yesterday heard an appeal filed by four East African civil society organisations (CSOs) seeking to reverse a judgment made by the First Instance Division of the EACJ.

Through the November 2023 judgement, judges at the First Instance Court dismissed a case through which the CSOs sought to stop the East African Crude Oil Pipeline (EACOP)’s non-compliance with regional and international laws

The appellate court that heard the appeal filed by the CSOs sat in Kigali, Rwanda. The case was heard by Justice Nestor Kayobera, Justice Kathurima M’Inoti and Justice Anita Mugeni. Others include Justice Barishaki Bonny Cheborion, and Justice Omar Othman Makungu.

In court were the CSOs/appellants, the CSOs’ lawyers, and EACOP- as well as other oil project-affected persons from Uganda. Lawyers for the parties that were sued by the appellants, including the governments of Uganda and Tanzania, as well as the Secretary General of the East African Community (EAC), were also present.

During the hearing, the appellants’ lawyers argued as follows:

- That there is a clash of facts provided by the government of Tanzania with regards to when the EACOP Intergovernmental Agreement (IGA) and Host Government Agreement (HGA) were signed. A preliminary objection cannot stand where a clash of facts exists;
- In addition, that the CSOs filed their case on time and in conformity with Article 30 of the EAC Treaty;
- Further, that the judges of the First Instance court evaluated evidence, which is barred while determining preliminary objections. Moreover, the court wrongly evaluated the evidence;

- In addition, that if the First Instance court dismissed the case on the grounds that it was time barred in some respects, the court should have tried other aspects of the case that were not time barred; and
- That the First Instance court should not have awarded costs to the governments of Uganda and Tanzania, as well as the Secretary General of the EAC, to avoid dampening public interest litigation by East Africans seeking to ensure compliance to the EAC Treaty.

They called on the appellate court to set aside the decision of the First Instance court, and revert the EACOP case to the Court of First Instance to be heard and decided on its merits.

Arguments

Dr. David Kabanda, one of the CSOs' lawyers, observed as follows, "We came to this [appellate] court over the preliminary objection [that was raised by the Tanzanian Solicitor General], who argued that the appellants' case was time barred. This court bars the raising of preliminary objections if the determination of that objection requires the examination of evidence. If you look at the record of proceedings from the First Instance Court, you find that the judges examined some evidence before they made their ruling."

Dr. Kabanda is also a team leader at Center for Food and Adequate Living Rights (CEFROHT) from Uganda, one of the CSOs that appealed the ruling of the First Instance court. The other appellants include Africa Institute for Energy Governance (AFIEGO) from Uganda, Natural Justice (NJ) from Kenya, and Centre for Strategic Litigation (CSL) from Tanzania.

Mr. Justin Semuyaba, another lawyer of the CSOs observed as follows, "We are appealing a ruling made by the First Instance court, which noted that they did not have jurisdiction to hear the case because it was filed out of time. We want to correct that mistake.

Article 30 (2) of the EAC Treaty empowers any person that is resident in the EAC states to bring a suit challenging any act, regulation, directive, decision or action of an EAC partner state that is unlawful or infringes on the EAC Treaty 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.

The appellants filed the case in November 2020, having obtained knowledge of the signing of key EACOP agreements by the governments of Uganda and Tanzania in October 2020. The case was filed in time."

Dr. Rugemeleza Nshala, another of the CSOs' lawyers, called on the court to reverse the decision of the First Instance court, which awarded costs to the governments of Uganda and Tanzania as well as the Secretary General of the EAC.

He observed, “Costs have a chilling effect that can stop citizens from pursuing justice through public interest litigation. The case that was filed was a public interest one that affects people. This is why we have all these people in court today.”

Ms. Joan Kembabazi, another of the lawyers of the CSOs, added, “It takes a spirited person to take on a case like this, considering the stakes involved. Slapping us with costs would deter bringing other cases.”

Ruling to be made on notice

Following the above arguments, and those made by the lawyers representing the governments of Uganda and Tanzania, as well as the secretary general of the EAC, Justice Kayobera observed that the ruling in the case will be issued on notice.

If the appellate court rules that the First Instance Division erred in dismissing the case as argued by the CSOs, the case will be returned to the latter division to be tried on its merits.

Reactions

Following the hearing, Mr. Dickens Kamugisha, the CEO of AFIEGO, called on Uganda and Tanzania to take climate action, even when rich countries that have polluted the most are rolling back climate progress.

He stated, "By virtue of their vulnerability, African states should be taking climate action. If they avoid investing in climate wrecking projects such as EACOP, they can go into negotiations with the rich and highly polluting countries with clean hands, demanding that they take climate action to save the world.”

Elizabeth Kariuki, the Director of the East Africa Hub of Natural Justice observed, "Projects like the EACOP are a direct setback in the global fight against climate change. In a time when we should be accelerating our transition to renewable energy and sustainable practices, this project pushes us backwards. We call on the governments of Uganda and Tanzania and other stakeholders to reconsider their involvement in this project that poses harm to people and planet, violates human rights, and exacerbates the climate crisis. The cost of continuing down this destructive path will not just be borne by the affected communities, but by the entire world."

Background of the case

The legal challenge against EACOP was initially filed on November 6, 2020, as part of a broader campaign to stop the pipeline project, which is being spearheaded by TotalEnergies and China National Offshore Oil Corporation (CNOOC), in partnership with the governments of Uganda and Tanzania. The CSOs contend that the project violates multiple international agreements, including the Universal Declaration of Human Rights, the African Charter on Human and Peoples’ Rights, the Paris Climate Agreement, and various regional environmental protocols.

The EACOP is designed to transport crude oil from Uganda's Lake Albert region to Tanzania's port of Tanga, spanning approximately 1,443 kilometers. The pipeline's construction has been widely criticised for its potential environmental and social impacts, including threats to biodiversity, water resources, and the livelihoods of local communities.

The CSOs maintain that due diligence was not adequately conducted before the project's commencement. They seek a court ruling that would mandate compliance with regional and international environmental and human rights standards.

*****ENDS*****

For further information, please contact:

- Africa Institute for Energy Governance (AFIEGO): dnabiruma@afiego.org
 - Centre for Strategic Litigation (CSL): info@strategiclawcentre.org
 - Centre for Food and Adequate Living Rights (CEFROHT): kabanda@cefroht.org
 - Natural Justice: salome@naturaljustice.org
-