

4 April 2026



EACJ Declares Limits on Public Interest Litigation Unlawful

On 27 March 2026, the East African Court of Justice (the Court) delivered a landmark judgment in Reference No. 25 of 2020 and Reference No. 27 of 2020 in the case of Pan African Lawyers Union (PALU) & 4 Others v Attorney General of the United Republic of Tanzania. The Applicants challenged provisions of the Written Laws (Miscellaneous Amendments) Act, No. 3 of 2020 (the impugned Act) for being inconsistent with the Treaty for the Establishment of the East African Community (the Treaty).

Background

In Reference No. 25 of 2020, the Applicants challenged amendments to Section 4 of the Basic Rights and Duties Enforcement Act (BRADEA), particularly Sections 4(2) and 4(3), which require that a litigant be personally affected before instituting a constitutional petition and restrict suits against certain high-ranking officials to be brought only through the Attorney General. The Applicants argued that these amendments curtailed public interest litigation and undermined access to justice, equality before the law, and the rule of law. Regarding Reference No. 27 of 2020, the Applicants challenged additional provisions of the challenged Act, including Sections 33, 35, 37, 45, 48 and 49, on the basis that they expanded immunities for public officials and weakened accountability mechanisms. The Applicants also challenged the use of a certificate of urgency in enacting the challenged Act, arguing that it formed part of a broader trend of restrictive legislative measures limiting civic space and fundamental freedoms.

The Judgment

The Court first affirmed that it has jurisdiction to hear matters involving human rights violations where such violations are linked to the provisions of the Treaty.

Further, on the amendments to BRADEA, the Court held that Sections 4(2) and 4(3), as introduced by Section 7 of the challenged Act are inconsistent with Articles 6(d), 7(2) and 8(1)(c) of the Treaty (which enshrine principles of good governance, rule of law, and adherence to Treaty obligations).

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The Court found that requiring a litigant to demonstrate personal interest unjustifiably restricts public interest litigation and undermines the principle of equality before the law. The Court further held that the provisions are disproportionate and inconsistent with the principles of accountability, transparency, and access to justice. However, the Court upheld Sections 4(4) and 4(5) (which require exhaustion of alternative remedies before filing constitutional petitions) as being consistent with the Treaty.

With respect to Reference No. 27 of 2020, the Court found that Sections 33, 35, 37, 45, 48 and 49 of the challenged Act (which, among others, expand immunities for public officials, centralize certain legal actions through the Attorney General, and grant administrative powers such as revision and translation of laws) do not violate the Treaty, noting that they serve legitimate purposes and satisfy the proportionality test.

On the legislative process, the Court observed that while the use of a certificate of urgency is permissible, the Respondent State failed to demonstrate the existence of a genuine emergency to justify the expedited enactment of the challenged Act. The Court held that this failure was inconsistent with the obligations under the Treaty.

Orders of the Court

The Court declared that Sections 4(2) and 4(3) of BRADEA, as amended, are inconsistent with the Treaty and directed the Government of the United Republic of Tanzania to amend or repeal the offending provisions within 6 months from the date of judgment.

It is worth noting that this decision reinforces the importance of public interest litigation as a key mechanism for safeguarding constitutional rights and promoting accountability. It also underscores the obligation of Partner States to ensure that both the substance and process of lawmaking comply with the fundamental principles of the Treaty, including the rule of law, transparency and good governance.

To read the Judgment [click here](#)

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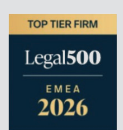
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