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PRESS RELEASE:Public Hearing of Reference No. 2 of 2015: East African Civil Society Organizations' Forum (EACSOFF) vs. The Attorney General of Burundi, the Commission électorale nationale indépendante (CENI) and the Secretary General of East African Community (EAC)

Categories: News, PALU at Court, Press Releases

PALU wishes to inform its members and the general public that on **Monday 13 June 2016, from 9:30 AM (EAT)**, a Public Hearing of the above-mentioned case will take place at the [East African Court of Justice \(EACJ\)](#), EAC Headquarters, 1st Floor, Africa Mashariki Road, in Arusha, Tanzania. The Applicant and the Respondents will present their submissions and arguments on the merits of the Case.

In the case, the Applicant ([EACSOFF](#)) is represented by PALU. The Reference, which was filed on 6 July 2015, questions the legality of the decision of the Constitutional Court of Burundi of 5 May 2015, authorising an 'exceptional third term' for H.E. Pierre Nkurunziza, and subsequent decisions of the CENI, as well as President Pierre Nkurunziza's bid for the Presidential elections of 2015. This was the very first time that a case of this nature had been filed, at a regional Court, anywhere in Africa. PALU highlighted that President Nkurunziza's candidacy would be in violation of the Arusha Peace and Reconciliation Agreement for Burundi of 2000, the Burundi Constitution of 2005, and thereby breaches principles of the rule of law and consequently also violates the objectives, fundamental and operational principles of the EAC Treaty.

On the same day (6 July 2015), EACSOFF filed, arising from the above Reference, **Application No. 5 of 2015**, seeking urgent Interim Orders (Provisional Measures) to stay the Burundi Presidential Election, pending the Hearing of the Reference on its merits.

On 20 July 2015, the Court held an *inter partes* Hearing, with the Applicant (EACSOFF) and the 1st Respondent (Attorney General of Burundi) represented. The 3rd Respondent (Secretary General of the East African Community) was not present but sent communication that he would comply with the Decision of the Court. The 2nd Respondent (Independent National Electoral Commission) has neither filed a Response nor presented itself before the Court. After Submissions by the Applicant and 1st Respondent, the Court issued a Summary Decision in which it disallowed the Application for urgent Interim Orders (Provisional Measures). (Reasons for the Decision of the Court [here](#))

While the Application for Interim Orders (Provisional Measures) was disallowed, the main Reference remains to be heard on its merits. Amongst other things, the Reference seeks the following redress:

1. A Declaration that the Decision of the Constitutional Court of the Republic of Burundi in Case Number RCCB 303 delivered on 5 May 2015 violated the letter and spirit of the Arusha Peace and Reconciliation Agreement for Burundi, 2000 (the Arusha Accord) and in particular Article 7(3) of Protocol II to the Arusha Accord and the Constitution of Burundi;
2. By reason of the aforesaid breach of the Arusha Accord and the Burundi Constitution, a Declaration that the Decision of the Constitutional Court of the Republic of Burundi in Case Number RCCB 303 delivered on 5 May 2015 equally violated several Articles of the Treaty for the Establishment of the East African Community (the EAC Treaty);
3. A Declaration that the decision of the CNDD-FDD political party to nominate or put forward President Pierre Nkurunziza as a candidate for election to the Office of the President of the Republic of Burundi in 2015 violated the Arusha Accord aforesaid and is unlawful; and
4. An order directing the Secretary-General of the EAC to constitute and give immediate effect to the said judgment and to advise the Summit of Heads of State and Government of the East African Community (EAC) on whether the Republic of Burundi should be suspended or expelled from the East African Community under Articles 29, 67, 71, 143, 146 and 147 of the Treaty for the Establishment of the East African Community.

This case could potentially create important jurisprudence that could be used for advocacy and high level dialogue against life presidencies and unconstitutional changes of government throughout the continent, in accordance with the

Objectives of the African Charter on Democracy, Elections and Governance. This is especially crucial for the East African and Great Lakes region, where there is a real danger that more leaders from these regions will seek to run for third or more terms over the next two years.

For more information about the case, follow through our social pages using **#PALUatCourt #Africa4Burundi**