

CASE-LAW ANALYSIS  
**POACHING AND ILLEGAL WILDLIFE TRADE IN TANZANIA**

<b>GENERAL INFORMATION ABOUT THE CASE</b>	
Case number	No. 16 of 2012
Court	District Court of Kilosa
Year (date)	2012
Name of the judge	J.J. Mkhoi R.M
Name of the parties	Republic vs. Said Salehe Makwawa and Another
Prosecuting authority (DGOs, state attorney, police...)	Police Inspector
Representation of accused person (lawyer?)	In person (No legal representation)
Transnational elements (Citizen/non-citizen, cross-border offence...)	Citizens
<b>DESCRIPTION</b>	
Defendants (age, gender...)	Adults
History of the case	Accused were arrested at Kigenge Mbuyuni Village within Kilosa District in Morogoro and were accused of unlawfully entering and hunting in a National Park having been found in possession of the government trophy which was impala meat.
Facts	On 12 <sup>th</sup> November, 2012 the accused Saidi Salehe Makwawa and Mashaka Saidi were arrested at Kigenge Mbuyuni village, Kilosa District Morogoro region and were accused of possessing government trophies. They were charged with four counts.
Charges	Accused were charged with four counts as follows: <ol style="list-style-type: none"> <li>1. Unlawful possession of the government trophy contrary to Section 86 (1), (2) (c) (ii) of the Wildlife Conservation Act, No. 5 of 2009 read together with para 14 (d) of the first schedule to and Section 57 (e) and 60 (f) of the Economic and Organized Crime Control Act (Cap 200 R.E 2002)</li> <li>2. Unlawful hunting in a National Park contrary to Section 23 (1), (2) (d) of the National Parks Act, Cap 282 R.E 2002 read together with para 14 (ii) of the first schedule to and section 57 (e) and 60 (2) of Economic and Organized Crime Control Act (Cap 200 R.E</li> </ol>

	<p>2002</p> <p>3. Unlawful possession of a firearm contrary to section 4 (1), 34(1), (2) of the Fire Arms and Ammunition Act, Cap 223 R.E 2002</p> <p>4. Unlawful transfer of firearm contrary to Section 24 and 34 (1), (2) of the Fire Arms and Ammunition Act, Cap 223 R.E 2002</p>
<b>SPECIES</b>	
Name	Impala
Value	Tshs. 1,227,330
Processed/Not processed	Not processed
<b>LEGAL REFERENCES</b>	
Legislation (principal and ancillary legislation)	<p>Wildlife Conservation Act, No. 5 of 2009</p> <p>Economic and Organized Crime Control Act (Cap 200 R.E. 2002)</p> <p>National Parks Act, Cap 282 R.E. 2002</p> <p>Arms and Ammunition Act, Cap 223 R.E. 2002</p>
Cases cited	NIL
International instruments	NIL
<b>DECISION/OPINION</b>	
Decision	Both accused were convicted as charged on the first count but acquitted on 2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> counts respectively.
Basis of the decision (reasons)	The prosecution succeeded to prove the first count but failed to provide sufficient evidence on 2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> counts.
Legal issues raised in judgment	<p>Whether both accused persons were found in possession of the government trophies unlawfully</p> <p>Whether both accused persons were found hunting in National Park unlawfully</p> <p>Whether the 1<sup>st</sup> accused was possessing fire arm unlawfully</p> <p>Whether the 2<sup>nd</sup> accused transferred Fire Arm unlawfully</p>
Penalty	Fined Tshs. 2,454,660 each failure to which they will go to prison and serve two years imprisonment each
<b>OTHER CONTEXTUAL INFORMATION</b>	
Context	This is a typical case of the persons killing animals crossed the national park to the public farm lands.

Appealed/Not appealed	No appeal
Bail	Not stated
Opinion on the case	Careful consideration of the evidence by the Magistrate makes this case unique