



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: GITHINJI, NAMBUYE & OUKO, JJ.A.)

CIVIL APPLICATION NO. NAI 11 OF 2015 (UR. 11/2015)

BETWEEN

THE LAW SOCIETY OF KENYA.....APPLICANT

AND

DEYNES MURIITHI.....1ST RESPONDENT

ALEXANDER MUCHEMI.....2ND RESPONDENT

ANNA CHERONO KONUCHE.....3RD RESPONDENT

PAUL KARIBA KIBIKU.....4TH RESPONDENT

REGISTRAR OF THE HIGH COURT.....5TH RESPONDENT

KIMANI WAWERU AND 28 OTHERS.....6TH RESPONDENT

(Being an application for stay of execution of the orders pending the hearing and determination of the intended appeal against the ruling of the High Court of Kenya at Nairobi (Ngugi, J.) Dated 9th January, 2015.

in

H. C. Petition No. 507 of 2014 as consolidated with Mombasa H.C. Petition No. 64 of 2014)

RULING OF THE COURT

Introduction and background

1. The respondents who are all advocates of the High Court of Kenya variously presented two petitions. The earlier in time was petition number 64/2015 presented at Mombasa High Court. It had *Kimani Waweru and 28 Others* as petitioners. It was directed at the applicant, *The Law Society of Kenya and twelve others*. It was dated the 3rd day of October, 2014 and sought various reliefs namely: a declaration that the petitioners' rights under Articles 27, 33, 35, 40, 46 and 47 of

the Constitution had been violated by the respondent; notice and or notices calling the Special General Meeting of the Law Society of Kenya on 27th September, 2014, was null and void ab initio; the mode of voting undertaken at the Special General Meeting of the Law Society of Kenya was in contravention of Section 2 of the Law Society of Kenya, Act and was thus null and void ab initio; the resolution and or resolutions of the Special General Meeting of 27th September, 2014 of the Law Society of Kenya were null and void ab initio; an order of certiorari to issue to quash any and all resolutions of the Special General Meeting of 27th September, 2014, of the Law Society of Kenya; an order that the respondents do forthwith provide/supply the petitioners with the minutes of previous meetings held by the Society to discuss the project; member of the council of the Society in which the project has been discussed; minutes of the Annual General Meeting authorizing the Council of the Society to contract consultants and to pay for their services; the Bill of Quantities, Architectural Plans, Floor Plans, and Engineering Drawings of the project; a summary of the procurement method adopted by the Council of the Society and the Minutes of the Procurement Committee (if any); justification for any direct procurement of Project Manager, Accountant, Architect, Quantity Surveyor, Engineer and other consultants; the quoted consultancy Fees by each consultant including the Project Manager and the Project Accountant; the feasibility study of the project; the projected income of the project, especially as considered vis-a-viz the monthly loan repayments amounts; the Project's Environmental Impact Assessment Licence; the Financial Agreement between the Financing Bank and the Society; an account of all funds paid to the Society in terms of the building levy introduced in the year 2002 and how such funds have been applied and costs. This petition was opposed by a replying affidavit deposed on the 31st day of October, 2014 by **Apollo Mboya**.

2. Simultaneously with the filing of the petition was filed a Notice of Motion substantively seeking order that the High Court be pleased to issue conservatory orders of stay to stay all the resolutions made by the respondents in the special general meeting held at Hilton on 27th September, 2014, pending hearing and determination of the application and petition; to stop or stay, the implementation of the proposed Law Society of Kenya Arbitration Center pending hearing and determination of the petitioner's petition herein; a temporary injunction to restrain the respondent by itself, its agents and servants from enforcing the resolution of the Special General Meeting held on 27th September, 2014 at Hilton Hotel and in particular from obtaining any loan and or financing by way of a loan and or overdraft from any financial institution, pursuant to the aforesaid resolution pending hearing and determination of this application and the petition; a temporary injunction to restrain the respondent by itself, its agents and servants from compelling the respondents to pay any monies towards the Law Society of Kenya International Arbitration Center and in any way pegging the issuance of practicing certificates to the petitioners to the payment of the illegal charge pending hearing and determination of the petitioner's petition herein; an order to compel the respondent to supply all the information and the documents specified in the petition and costs.

3. H.C. Petition No. 507/2014 dated the 15th day of October, 2014 was presented at Nairobi High Court by one **Deynes Muriithi and 3 others versus the applicant, the Law Society of Kenya and another**. It sought: declarations that issuance of a practicing certificate under Section 21 of the Advocates Act Cap 16 Laws of Kenya should not be subjected to any other benefit or obligation that may either be resolved or proposed by the 1st Respondent and which benefit or obligation was not contemplated by the Advocates Act Cap 16 Laws of Kenya, the Law Society of Kenya Act, Cap 26 Laws of Kenya, regulations there under or any other applicable law; a prohibitory order restraining the Respondents from in any way making the payment of Ksh. 39,000.00 – Ksh. 50,000.00, either wholly or any part thereof a pre-condition for the issuance of a practicing certificate; an order of certiorari to bring to this court and quash the decision made by the 1st respondent making it a condition precedent for the Petitioner and any Advocate to pay Ksh. 39,000.00 or any other monies not contemplated under the Advocates Act Cap 16 Laws of Kenya, The Law Society of Kenya Act Cap 26 Laws of Kenya and the Rules, there under prior to issuance of a practicing certificate and Costs of the petition. It was also opposed by a replying affidavit deposed by **Apollo Mboya** on the 30th day of October, 2014.

4. Simultaneously with the filing of the petition. The Petitioners herein also filed an application dated 10th November, 2014 supported by an affidavit sworn by the 1st Petitioner **Mr. Deynes Muriithi**. It substantively sought an order that pending the hearing and determination of the petition, a conservatory order be issued restraining the 1st and 2nd Respondents from in any way implementing or executing the decision requiring the payments of Ksh.39,000.00 or Ksh.50,000.00 or any part thereof being money towards construction of the International Arbitration Center as a pre-condition on to the issuance of the 2015 practicing certificates and lastly that costs of the application be in the cause. It was also opposed by the same replying affidavit of **Apollo Mboya** of 21st November, 2014.

5. An order for the consolidation of the petitions was made on 24th November, 2014, with the petitioners in petition number 507/2014 becoming the 1st to 4th petitioners, while those in petition number 64/2014 became the 5th to the 32nd petitioners. By reason of the aforementioned consolidation order, the attendant interim applications filed simultaneously with the petitions and opposed by the replying affidavits of **Apollo Mboya** aforementioned were heard together resulting in the ruling of **Mumbi Ngugi, J.** dated the 9th day of January, 2015 sought to be impugned in the intended appeal.

The application under Review.

6. The applicant was aggrieved by that decision and filed a notice of appeal dated the 12th day of January, 2015 and lodged in the High court's Registry on the 13th day of January, 2015. It is on the basis of the aforesaid notice of appeal that the applicant moved to this Court and presented the Notice of Motion under review, brought under rules 5(2) (b) and 42 of the Court of Appeal Rules, and all other enabling provisions of the law. It substantially sought orders that.

“(1. THAT this Honourable court be pleased to order a stay of execution of the ruling and order of the High Court made on the 9th January, 2015 in High Court Petition No.507 of 2015 Nairobi and any subsequent orders issued in furtherance of the said ruling until the final determination of the intended Appeal.

2. THAT the applicant be at liberty to apply for further orders and/or directions as the Honourable Court may deem fit and just to grant.

3. THAT costs of this application be granted.”

7. The application is supported by the grounds in its body and the supporting affidavit of **Apollo Mboya** deposed on the 15th day of January, 2015. The application has been opposed by two replying affidavits of **Kimani Waweru and Deynes Muriithi** both separately deposed on the 11th day of February, 2015 and simultaneously lodged in this Court's Registry on the 13th day of February 2015, both of which are similar in their material particulars.

Applicants' submissions.

8. In his oral submissions to Court **Mr. Ahmednasir, Senior Counsel** urged us to allow the application, first, on the ground that the learned trial Judge ignored the applicants' comprehensive responses to both applicants vide replying affidavits deposed by **Apollo Mboya** in opposition to both o petitions which had been adopted vide paragraph 3 of the applicants replying affidavit of 21st November, 2014 filed in opposition of the interim applications.

9. Second, that the learned trial Judge also failed to note that the both petitions were based on misrepresentation of facts, bad faith, misdirection, concealment of material facts, and malice borne out by the fact that the list of members exhibited did not contain authority from those members to the petitioners to present the petitions; fifty percent (50%) of the persons named as supporting the petitions had either disowned the signatures or were not members of the applicant; even if it were to be taken that indeed the

named persons were opposed to the project, the trial Judge should not have overlooked the fact that this was a small number of protesting members as compared to the other 11,650 members who were in favour of the project; and that the interests of this large number which form about ninety percent (90%) of the membership should not have been ignored.

10. Third, that the learned judge failed to note from the documentation placed before her that on 8th October, 2014 soon after the Special General Meeting, the chairman of the applicant did respond to all the concerns arising from the Special General Meeting held on 27th September, 2014; the respondents raised no concerns with regard to any matters arising from the said Special General Meeting; the applicant went further inviting volunteers to form a committee of experts to look into matters affecting the project to which the respondents never offered themselves to be named as members of this committee of experts; the respondents were also supplied with all the documents pertaining to the project and in addition invited to visit the secretariat to peruse the documents with confidentiality clauses but they declined that offer and hence lost their right to raise any complaints against the project.

11. Four, that the respondents are members of the applicant by operation of law which law authorizes the applicant to levy fees. It was in the exercise of the mandate bestowed upon the applicant by this same law that the applicant decided to levy fees towards the project. In the circumstances, the move taken by the applicant was not only legal but also procedural considering that the decision to levy the said fees had been arrived upon after consultations and consensus reached during the Special General Meeting. The respondent ignored questionnaires circulated to members for comments to which a majority of the members responded favourably in favour of the project.

12. Five, that the project Manager took the members who attended the Special General Meeting on the financial implications of the project before it was approved by the said members; it was not true that the unspecified economic rights of the respondents would be affected if the project were to take off; in contrast, the greater public interest demanded that the project be carried through in the best interest of the majority of the members of the applicant as the Centre would provide an avenue for quick resolution of disputes and thus help in decongesting and reducing backlog of cases currently affecting the court system at all levels.

13. On the existence of arguable points, **Mr. Ahmednasir** Senior Counsel pointed out the learned trial Judge's failure to grant the applicant a fair hearing; failure to consider the applicant's substantive replying affidavits sworn in opposition to both petitions; the fact that the orders granted were not supported by the facts placed before the learned trial Judge; the fact that there was nothing constitutional in the respondents' assertions in their petitions; the existence of contradictory orders which were in capable of enforcement; misdirection on the application of the principle of public interest; failure to consider other several resolutions by members of the applicant which had approved the project leading to a misconception that the project was approved at the Special General Meeting of 27th September, 2014 and not earlier; and lastly, granting order (c) of her reliefs when the same had not been prayed for in the application.

14. Turning to the second principle that the appeal would be rendered nugatory if the order sought is not granted, **Mr. Ahmednasir** urged that if the order sought is not granted arbitral proceedings may be commenced and if commenced any award filed may render the appellants appeal academic as the applicant and its members may be precluded from discussing matters pertaining to the project. The order also has heavy financial implications on the applicant and a majority of its members who risk a financial loss of over Kshs.23, 000,000/= that it has already paid to various consultants in connection with the project. There is also a risk of the various consultants bringing claims against the applicant for failure to perform its part of the various contracts.

Applicants Authorities.

15. Reliance was placed on the decision in the case of **Butt versus Rent Restriction Tribunal [1982] KLR 417** for the proposition that the exercise of the court's jurisdiction under rule 5(2) (b) of this Court's Rules is purely discretionary and should be exercised only if there is no other overwhelming hindrance; it

should not be withheld merely because in the courts opinion a better remedy may become available to the applicant at the end of the proceedings; and lastly, the court should also consider any special circumstances of the case and any unique requirement; the decision in the case of **Githunguri versus Jimba Credit Corporation Ltd [1988] KLR 838** for the proposition that the jurisdiction only lies if a notice of appeal has been lodged against the decision or ruling appealed from; the jurisdiction is unfettered so long as the appeal/or intended appeal as the case may be should not be frivolous but arguable; and secondly, that it be demonstrated that it will be rendered nugatory if the stay is not granted. The decision in the case of **Equity Bank Limited versus West Link MBO Ltd [2013] eKLR** for the proposition that, this jurisdiction is both original and also a procedural innovation designed to empower the court to entertain an interlocutory application for the preservation of the subject matter of appeal in order to ensure the just and effective determination of the appeal. The decision in the case of **Reliance Bank Ltd versus Norlake Investments Ltd [2002]1EA 218 (CAK)** for the proposition that it is required to be exercised within the circumstances of each case; and the issue of the balance of convenience of the claims of both sides is one of the elements to be considered when dealing with the question of whether the success of an appeal would be rendered nugatory if a stay of execution or an injunction is not granted; the case of **Mohamed Hassan Maalim and 2 others versus Gravet Limited [2014] eKLR** for the proposition that the Jurisdiction is available for ends of justice to be met to both parties; the case of **Ruben & 9 others versus Nderito & another [1989] KLR 459** for the proposition that such exercise does not constitute an appeal from the trial Judges discretion to the Court of Appeal; the decision in the case of **Total Kenya Limited versus Kenya Revenue Authority [2013] eKLR** for the proposition that although only three orders are recognized under this rule that does not preclude the court from making any other conservatory orders in its inherent jurisdiction in specific circumstances.

The respondents' submissions.

16. In opposition to the applicants application, **Mr. D. Anzala** learned counsel for the 1st, -4th & 6th respondents placed reliance on the replying affidavits filed simultaneously with the applications of **Deynes Muriithi and Kimani Waweru** in urging us to dismiss the applicants application. **Mr. Anzala** argued that: the allegations of malice, conspiracy, bad faith and misrepresentation in the respondent's move to present the consolidated petitions had not been demonstrated to exist; the learned trial Judge considered all the facts put forth by all the parties and then arrived at the correct conclusion on the matter irrespective of lack of a mention that she had so considered them; alternatively since the learned trial Judge was dealing with interlocutory issues, it was not necessary for her to go into great detail of facts put before her by the parties as all that was required of her was a decision as to whether or not a prima facie case had been made out for a conservatory order.

17. Further that the respondents had genuine grievances for interrogation by the court when they presented their petitions sparked off by the applicant's wriggling out of the negotiations to settle the matter out of court. it was also **Mr. Anzala's** stand that the applicant wriggled out of the negotiations with a view to stealing a march upon the respondents and render the petitions nugatory by demanding between **Kshs.39,000/= and Kshs. 50,000/=**. as a precondition for the issuance of practicing certificates to its members; maintained none of those respondents on whose behalf petitions were filed had recanted their consents; the sole aim of the petitions was to protect the respondents' economic rights to a livelihood; the respondents as members of the applicant were entitled to express their views at the manner the applicant had called the Special General Meeting on the one hand and on the other hand at the manner the consultants for the intended project had been sourced in disregard to the Architect's advice that these be brought on board only after the Bill of Quantities had been obtained from the quantity surveyor.

18. On the arguability of the applicant's intended appeal, it was **Mr. Anzala's** contention that the intended appeal is not arguable because it was the applicant's conduct described above that forced the respondents into moving to court to seek conservatory orders to protect their constitutional rights; none of the respondents is challenging their membership to the applicant; the applicant has neither disclosed to its membership the methodology used in short-listing the consultants for the proposed project nor the real cost implications of the project; the applicant was and still is obligated to undertake the project in an open and accountable manner; the applicant is obligated to take note of the genuine concerns of dissenting voices in the membership over the intended project; no law permitted the applicant to peg the issuance

of practicing certificates to its members to their payment of fees towards the construction of the intended project; the applicant could not on the basis of the amount of money to be paid by the respondents towards the intended project treat lightly the constitutional rights of the respondents.

19. On the second ingredient it was **Mr. Anzala's** argument that the intended appeal will not be rendered nugatory because the applicant will have an opportunity to present its case and evidence before the arbitrator; it is the applicant who has been reluctant to have the matter resolved through arbitration; the affairs of the applicant are run through payment of subscription fees and not through contribution towards the intended project; the orders granted by the learned trial Judge have not prejudiced any of the applicant members who may wish to pay towards the project as all that the learned trial Judge did was to say that the respondents should not be forced into paying money towards the said project; it is erroneous for the applicants to seek a stay of orders it has partially complied with; the High Court did not make a positive order capable of being executed as the orders sought to be impugned were simply issued to protect the respondents constitutional rights; if the order sought is granted it will prejudice the respondent's constitutional rights as the protection afforded them by the trial court through its orders would be taken away thereby rendering the pending petitions nugatory; and lastly that an order of stay on an accorded enjoyment of a constitutional right would lead to a violation or an infringement of the constitutional rights of the respondents already accorded.

Respondents authorities

20. The respondents placed reliance on the decision in the case of **Nairobi Metropolitan PSV Saccos Union Limited and Twenty Five others versus County of Nairobi Government and three others [2014] eKLR** for the proposition that there is no jurisdiction to grant a relief under rule 5(2) (b) of this Courts Rules where the High Court's order either resulted in a dismissal or a striking out order; or alternatively where the court did not order either party to do or refrain from doing something capable of being restrained; the decision in the case of **Stanbic Bank Kenya Ltd versus Kenya Revenue Authority [2008] eKLR** for the proposition that under rule 5(2) (b) of this Courts' Rules, this court only has jurisdiction to grant three orders namely an order staying the proceedings, an order staying execution of the superior court, and lastly an injunction order around which this courts' inherent power revolves; the decision in the case of **Shimmers Plaza Limited versus National Bank of Kenya Ltd[2013] eKLR** for the proposition that where this court is not being asked for an order of status quo, there is no jurisdiction to grant a relief under rule 5(2)(b) of this Courts rules.

This Court's Jurisdiction under Rule 5(2)(b).

21. Our jurisdiction under rule 5(2) (b) is original, independent and discretionary. (See **Githunguri v. Jimba Credit Corporation Ltd No. (2) [1988] KLR 88**). It is a procedural innovation designed to empower this court to entertain interlocutory applications for the preservation of the subject matter of the appeal where one has been filed or is intended.(See **Equity Bank Ltd v. West Link NBO Civil Application No.78 of 2011 (UR)**). The jurisdiction under rule 5(2) (b) only arises where the applicant has lodged a notice of appeal. (See the **Safaricom Ltd v. Ocean View Beach Hotel Ltd & 2 others, Civil Application No. 327 of 2009 (UR)**).

22. The conditions to be met before a party can obtain relief under rule 5(2) (b) have been crystallized by case law assessed above. The applicant has to demonstrate, first, that the appeal or intended appeal is arguable. By arguable, it does not mean an appeal or intended appeal which must succeed, but one which raises a bona fide issue worthy of consideration by this Court. (See **Kenya Tea Growers Association & another v. Kenya Planters Agricultural Workers Union, Civil Application No. NAI 72 of 2001 (UR)**).

23. It is trite too that demonstration of the existence of even one arguable point will suffice. (See **Kenya Railways Corporation v. Edermann Properties Ltd, Civil Appeal No. NAI 176 of 2012 and Ahmed Musa Ismael v. Kumba Ole Ntamorua & 4 others, Civil Appeal No.NAI.256 of 2013**). Lastly, both limbs must be demonstrated to exist before one can obtain relief under rule 5(2) (b). (See **Republic v. Kenya Anti-Corruption Commission & 2 others [2009] KLR 31**, and **Reliance Bank Ltd v. Norlake Investments Ltd. [2012] 1 EA 227** and **Githunguri v. Jimba Credit Corporation (supra)**).

24. We have applied the above principles to the rival arguments before us herein. We are satisfied that our jurisdiction has been properly invoked under the applicable rule as there is a notice of appeal in place dated the 12th day of January, 2015. See the case of **Githunguri versus Jumba Credit Corporation Ltd (Supra)**. Our next simple task is to determine whether the applicant on the facts as have been laid out before us has brought itself within the ambit of the twin principles for the grant of a relief under **rule 5(2) (b)** of this Court's Rules. The first prerequisite is the demonstration of the existence of an arguable appeal. The applicant has displayed before us the draft memorandum of appeal. we have perused the same and are in agreement that issues such as the alleged learned trial Judge's failure to properly appraise the totality of the facts before her before exercising her judicial discretion in favour of the respondents; alleged lack of violation of constitutional rights of the respondents; alleged failure to consider the issue of public interest and alleged grant of contradictory orders and the courts bias against the applicant in the assessment of the facts before it are all arguable. By arguable we mean that it is our considered opinion that as the facts on the record as displayed before us when considered in the light of the intended grounds of appeal fronted by the applicant, the respondent can prudently be called upon to respond to the issues raised by the applicant in the intended memorandum of appeal. In the result, we are satisfied that the applicants intended appeal is therefore not frivolous, it is arguable. We wish to reiterate that one arguable point will suffice. See the case of **Kenya Railways Corporation versus Edermann Properties Ltd (supra)**. Herein we have identified several.

25. As for the second limb of the twin principles, principles of case law assessed above place a legal obligation on to the applicant to prove its allegation that its intended appeal will be rendered nugatory if the stay order sought is not granted. The grounds presented by the applicant in support of this ingredient are *inter alia* that there is a likelihood of heavy financial implications being vested on the majority of the members of the applicant who risk a financial loss of over **Kshs. 23,000,000.00** that it has paid over to various consultants in relation to the intended project. There is also a likelihood of the affected consultants filing suits against the applicant for breach of contract and lastly that the applicant is willing to provide security for the order.

26. The respondents opposition to the applicants request, *inter alia*, is that the orders sought to be stayed have been partially performed and therefore cannot be restrained; the said order did not require any party to it to either do or to refrain from doing anything which is capable of being stayed; and lastly that no prejudice will be suffered by either party if the stay order sought is not granted.

27. The portion of the orders intended to be restrained were reproduced in the body of the application as:

- a. ***That conservatory orders be and are hereby issued staying all the resolutions made by the respondents in the special General Meeting held at Hilton Hotel on the 27th September, 2014 pending the hearing and determination of the petitions or further orders of the court.***
- b. ***That a conservatory order be and is hereby issued restraining the 1st respondent by itself, its agents and servants from compelling the petitioners to pay any monies towards the Law Society of Kenya International Arbitration Centre or in any other way pegging the issuance of the practicing certificates to the payment of the sad (sic) amount pending hearing and determination of this petition or further orders of the court.***
- c. ***That the 1st respondent does , within 14 days of today release to the petitioners all the information requested for in the letter dated 30th September, 2014 and in prayer (f) of the application dated 3rd October, 2014."***

28. We have applied the principles of case law assessed above to the above set out three orders and we find that none of them amount to either a dismissal order or a striking out order capable of being termed a negative order in terms of the principles of case law assessed above. Second, the respondent did not point out to us any other negative orders of dismissal or striking out as resulting from the said ruling. Third, we are in agreement that all the three orders fell into the category of positive orders as they required the applicant to do something positive in relation to them. They are therefore capable of being stayed.

29. Two substantive orders have been sought from us. The order sought in prayer one (1) of the application under review is the substantive prayer for the stay order. In prayer 2, on the other hand, the applicant seek liberty to apply for further orders and /or directions as the Honourable court may deem fit to grant. The position as to the nature of reliefs accessible under rule 5(2) (b) of this court's Rules was reiterated by this corrupt in *Shimmers Plaza Ltd versus National Bank of Kenya (Ltd (supra))* namely an order staying proceedings; an order staying execution of the superior courts' orders and lastly an injunction. The order sought in prayer 2 of the applicants application is therefore alien to the orders available under **rule 5(2) (b)** of this Courts Rules. See also the decision in *Mombasa Duty Free Ltd versus Kenya Ports Authority [2006] eKLR* where in jurisdiction to grant a relief alien to the reliefs available under **rule 5 (2) (b)** procedures was declined.

30. Taking the totality of all the factors assessed above together with the relevant applicable principles on the exercise of Jurisdiction under rule 5(2) (b) of this Court's Rules, bearing in mind all the rival arguments put before us by either party, we are inclined to allow prayer (1) of the applicant's application under review on the following terms:-

1. That the monies due from the respondents towards the intended construction of the Law of Society of Kenya International Arbitration Centre be deposited in an interest earning account in the joint names of learned counsel for all the parties herein to be opened in any sound financial institution to be mutually agreed upon by learned counsel for all the parties herein within thirty (30) days of the date of the reading of this Ruling.
2. Costs of the application to abide the outcome of the intended appeal.

Dated and delivered at Nairobi this 29th day of May, 2015

E.M. GITHINJI

JUDGE OF APPEAL

R. N. NAMBUYE

JUDGE OF APPEAL

W.OUKO

JUDGE OF APPEAL

I certify that this is a

true copy of the original.

DEPUTY REGISTRAR