

THE LEGAL STATUS OF THE EAST AFRICAN COMMUNITY (EAC) IN THE CONTEXT OF DISPUTE RESOLUTION

Written by Netsanet Mesfin Tesfu

*PhD Holder, School of International Law, University of International Business and
Economics (UIBE) Beijing, China*

ABSTRACT

Although it has taken place over more than ten years, the East African Community's (hereinafter the EAC) "transformation" history is similar to those of other international regional organizations. For instance, before becoming the EU1, the European Economic Community (hereafter the EEC) also underwent significant "transformation." More specifically, the essay considers the early stages of the EAC's development, its early difficulties, and potential solutions to help it achieve its current status.

The article also discusses the roles and responsibilities of the East African Community's institutions and organs while touching on significant papers that have been confirmed and adopted by partner states. In order to distinguish the EAC from other regional economic organizations on the continent, the essay will also examine how successful the EAC has been in upholding the values of democracy, the rule of law, and social justice.

This article's conclusion will demonstrate that the EAC's history of existence and its reestablishment in 2000 provide justification for embracing its legal status, particularly in light of one of their objectives to establish a federation among other principles listed in the treaty that are in line with the fundamental rules of International law.

This study in its conclusion also looks into the need for a dispute resolution system, which is actually one of the main causes for why countries establish regional and international economic organizations. The establishment of such a dispute-resolution system reduces tension between nations and also encourages them to refrain from employing force to resolve any economic disagreements.

Keywords: East African Community (EAC), Regional economic communities (REC), integration, treaty, dispute resolution.

INTRODUCTION

The history of cooperation in the East African region may be traced back to the late 19th and early 20th century, at the time of "The East Africa common market." It is clear that there was a shared vision of how East Africans would create a centralized government that would include all tribes and cultures for the benefit of everyone long before any of these member states attained independence (Whitaker, 1964: 84). The EAC unquestionably has a history that evolved gradually over a century. According to a book by Ally Possi, there are three phases of African regionalism: the pre-independence phase, the post-independence era, and the new millennium phase (Possi, 2013:173-195).

The three areas were governed by the East African High Commission prior to independence. It had a unique organization and was in charge of both legislative and common market activity. The East African Common Services Organization took the position of the East African High Commission during the post-independence period.

The Treaty for East African Cooperation, which had created the East African Community, was formally dissolved in 1977. Lack of a strong political will, weak private sector and civil society involvement in cooperation activities, continued unequal distribution of the Community's benefits among Partner States due to their disparate levels of development, and a lack of policies to address this situation were the main factors that led to the original East African Community's demise.

The new century period marks the completion of the EAC's update and re-establishment. It is impossible to talk about the EAC as an international organization without examining its structure, which includes the institutions and organs created by the treaty, as well as the objectives and guiding principles that guide how it carries out its duties in accordance with the Treaty and the idea of international law. The legal background of the EAC will also be addressed, with special focus being placed on the important papers that have been signed.

These papers, which are regarded as having legal force by and among the member nations, include treaties, protocols, acts, and other writings. In general, historians, philosophers, lawyers, political scientists, and economists have all studied the EAC closely as a regional economic community.

The East African Court of Justice, a system for resolving disputes within the East African Community as set forth in its Treaty, will be examined in this paper. The paper also considers how the East African Court of Justice's expanded jurisdiction can aid in fostering regional cohesion. In order to establish an efficient conflict resolution process for the East African Community, it examines the scope of the jurisdiction and duties that the East African Court of Justice ought to possess.

For a favorable investment climate, host country policies in addition to liberalization measures are crucial, and as liberalization advances, their importance grows. Therefore, to ensure predictability and stability, a sufficiently extensive legal framework for commercial activity and an effective legal system are necessary. Moreover, a strong administrative framework is required to guarantee the efficient application of the legislative framework.

BACKGROUND TO THE PROBLEM

On November 30, 2001, the East African Court of Justice (the Court) was established. The Court's very narrow scope of authority is limited to interpreting and enforcing the Treaty. This is confirmed by Article 27 of the Treaty, which also specifies that the Court shall have additional original, appellate, human rights, and other jurisdiction as determined by the Council. To yet, no protocol defining the Court's expanded jurisdiction has been reached. Unfortunately, this is insufficient to grant the Court the necessary authority to function as a regional court.

The Court has the authority to hear and decide disputes between the Community and its employees that are based on the terms and conditions of employment of the Community employees under Article 21 of the Treaty. According to Article 32, the Court has the authority to hear and decide any case in a contract that has an arbitration clause that gives the Community or any of its institution's jurisdictions. Partner States (Article 28), the Secretary General

(Article 29), as well as legal and natural individuals, may refer matters to the Court (Article 30). The Court may give interim orders or directives in accordance with article 39.

To further the economic growth of the East African Area as envisioned in Article 5 of the Treaty, the East African Court of Justice must have a clearly defined and expanded jurisdiction. With this expanded jurisdiction, the court should be able to handle any trade disputes between state parties and other legal or natural persons, as well as any emerging legal issues, such as labor issues and human rights to the extent that they pertain to trade and the advancement of the Treaty's objectives. If the political union of the three East African nations is to become a reality, this clearly defined and expanded jurisdiction is also required.

Examining other reputable regional courts is necessary, including the COMESA court of justice and the Court of Justice of the European Communities. The COMESA Court of Justice, in contrast to the EACJ, is competent to hear any cases that are brought before it in accordance with the COMESA Treaty. The Secretary General, Member States, as well as legal and natural persons, may make references. Also, there are comprehensive rules guiding the COMESA Court of Justice's proceedings.

We'll look at the significance of these courts in fostering regional integration. European integration has been significantly accelerated by the Court of Justice of the European Communities. Some of its significant rulings include that in the Royer case from April 1976, in which the court maintained a member state citizen's freedom to dwell in any other member state without the need for a visa or other authorization from the country they are visiting.

Any product that is lawfully produced and marketed in one member state must, in theory, be permitted onto the market of any other member state, the Court ruled in the Cassis Dijon case in February 1979.

The competition policy and social security policy are two other crucial rulings of the court that have advanced the process of European integration. The advantages that EACJ can adopt should be determined through a comparative examination.

STATEMENT OF THE PROBLEM

In order for the East African Court of Justice to meaningfully contribute to the achievement of

the EAC objective of promoting regional integration and economic development within the community and providing an effective dispute resolution mechanism, the existing provisions in the East African Treaty do not give the Court adequate jurisdiction, role, and powers to enable it to handle disputes that may arise from member states, their citizens, or investors.

THEORETICAL FRAMEWORK

The study's focus is on the intersection between law and development. The study looks at how disputes are resolved; aims to address the issue of a lack of a regional court within the East African Community that does not effectively advance the Community's goals, which are to bring its member states' development through regional integration. The study emphasized demonstrating that the East African Court of Justice lacks sufficient authority, which has resulted in the court's inability to effectively encourage regional integration and economic development the Neighborhood.

For many years, the United Nations, particularly through its numerous regional commissions, has spreading the idea that regional integration and collaboration is a crucial instrument for promoting development. There are conflicts both between and inside organizations across human civilization.

Conflicts are therefore anticipated (and have already occurred) within the EAC. Regional integration without an effective dispute resolution process will quickly result in disintegration. When states are at odds, they have competing interests and hence have an incentive to give false or erroneous information and interpret the information that is accessible material that supports their own viewpoint.

The idea consequently proposes expanding the EACJ's jurisdiction so that it can deal with conflicts including things other just how the Treaty should be interpreted. The study examined how the topic of dispute settlement has been discussed in the community. The community's perception of the procedures it has implemented has also been examined, and it is evident that the same, but does not declare the same directly.

With an appropriate conflict resolution process, trade and the movement of skilled and educated workers are more the economic region's unskilled labor force without creating unneeded conflict that could lead to states using force against one another anytime a

disagreement occurs. This also usually draws outside investors to make investments in the economic region. There must be special regard given consideration to the worries about disputes of both international investors and host countries settling methods. Most bilateral investment treaties (BITs), as well as some measures for the resolution of conflicts are included in regional agreements and other instruments.

LIMITATIONS OF THE PROPOSED STUDY

This study's primary limitation is that it only examined written texts and other artifacts. The study didn't actually collect data through conducting interviews or other forms of data collection. As a result, some data that would have aided the study are therefore missing. Also, there aren't many written works on the topic.

The defunct East African Community was the subject of the vast majority of the literature. In order to learn more about the current circumstances at the EAC and EACJ, reliance was placed on the reports produced by the EAC Secretariat. The experiences of other regional courts were also used as a basis for works that were tailored to the situation in East Africa and which assisted in formulating suggestions for reforming the EACJ.

THE EAC AS AN INTERNATIONAL ORGANIZATION

Amerasinghe describes the EAC as "an inter-governmental, transnational that aims to increase and deepen integration with the closed organization methodical creation of a monetary union, common market, and customs union ultimately leading to a Political Federation. It also highlights the significant involvement of the The EAC Treaty of 1999¹⁷ established EAC as a community.

EAC is a local organization, an intergovernmental body with six member countries, including Kenyan Republic, Ugandan Republic, United Republic of Tanzania, and The republics of Burundi and Rwanda and the South Sudanese Republic

The three initial signatories to the EAC Treaty ratified it, and it came into effect in July 2000. It is significant to remember that the EAC's role as an international organization.

The EAC Treaty expressly states that intergovernmental organization may not be adequately depicted. Despite this, it continues to be recognized as a regional economic powerhouse. Like every other business, the EAC describes its goals and guiding principles in accordance with Articles 5 and 6 of the EAC Treaty, according to which it functions.

As an economic group, the EAC's primary goal is to "create policies. Various initiatives designed to increase and strengthen cooperation among Partner States in the domains of politics, economy, society, and culture, research and development, defense security, legal issues, and judicial matters for the advantage of both. Similar goals are shared by groups like ECOWAS. As a global citizen the EAC adheres to fundamental rules that are not only consistent with the both with the EAC Treaty and with generally accepted moral standards whereby the member countries try to abide by the rules of democracy, of the law, responsibility, openness, social justice, equality of opportunity, and gender,

Also, make an effort to acknowledge, advance, and defend people and human rights. in compliance with the African Charter on Human and Peoples' Rights; for the actualization and attainment of its goals and objectives in practice. According to the treaty, the EAC lays down operational guidelines. the practical provision by the Partner States of an acceptable and appropriate level of a favorable policy climate and basic infrastructure are examples of an enabling environment.

Free flow of commodities, people, labor, services, capital, and information is required. and technology" have been effectively put into use. A crucial element has been infrastructure. due to its significance in supporting a variety of activities, in encouraging regional integration encompassing agriculture, trade, tourism, and encouraging people to roam freely and products. Agreements to this effect have been reached by the EAC partner states; among the decisions made by the EAC Partner nations to put no obligation on goods and services between one another. The EAC's founding members collectively signed the EAC Customs Union Protocol (hence referred to as "the Protocol")

EAC Customs Union Protocol), which was adopted in 2004 and went into effect in 2005. This procedure is regarded as the first of the EAC's four key pillars because it signaled the creation

of a customs union that was meant to address the important activities related to trade in the area. The protocol for the EAC customs union was developed specifically to provide for a number of major trade areas that are essential for the EAC integration process and in compliance with article 75 of the EAC Treaty.

The treaty also stipulates safety measures and other trading limitations among others, as specified in this protocol's article 2(5). the rest of the member countries that later became a member of the EAC Communities ratified the EAC Customs Union treaty. in order to be admitted to the bloc. The second-most crucial record and the Protocol on the Establishment of the EAC Community is another significant

Community Common Market in East Africa (hereinafter EAC Common market protocol).

The five member states of the protocol signed it on the twentieth September 2010 in Arusha, Tanzania, and went into effect on January 1 2011.

According to the EAMU Protocol, a ten-year period following the date of its formation designed to enable partners to "gradually merge their currencies into a single" currency in the neighborhood. The EAMU protocol's primary objective is to eventually harmonize monetary and creating budgetary guidelines and financial accounting.

The East African partner governments have created, created, and implemented policies, programs designed to address these issues on a regional level; accomplishments, commitment renewal and reaffirmation, the eradication of poverty, fostering and improving sustainable development, infrastructure, health, and education, water resources, renewable energy sources, agriculture and food security management, debt forgiveness, terrorism, refugee issues, and disaster management.

THE STRUCTURE OF THE EAC

The following entities are hereby established as organs of the Community in accordance with article 9(1) of the EAC Treaty: (a) the Summit; (b) the Council; (c) the Coordination Committee; (d) Sectoral Committees; (e) the East African Court of Justice; (f) the East African Legislative Assembly; (g) the Secretariat; and (h) such other entities as may be established by the Summit. The Community's institutions and organs must carry out their duties and operate

within the confines of the authority granted to them by or pursuant to this Treaty, according to article 9(4).

Heads of state and government from the Partner States attend the summit. The Summit's primary purpose is to provide general guidance in achieving the Community's objectives.

During the yearly heads of state meetings as specified, in addition to giving instructions for the advancement of the community's goals,

The summit also considers council report submissions as required by the treaty. The summit also addresses matters related to membership, such as accepting other nations toward the Community. Moreover, and in compliance with Articles 143, 146, and 147, the sanctions against, suspension from, and expulsion from the summit

In line with Articles 143, 146, and 147, the summit is in charge of addressing sanctions against, suspension of, and expulsion of disobedient Partner States. The summit also deals with membership concerns, such as admitting new nations into the Community. Furthermore, it goes without saying that the Summit's top priority in this era of globalization is to monitor the level of peace and security that will support the Community's excellent governance.

With the exception of decisions on the appointment of judges to the EAC Court of Justice and the assent to bills, the Summit, which makes decisions by agreement, may delegate the exercise of its powers to the Council or the Secretary General. The Council of Ministers, the principal body for making decisions, is made up of ministers from partner states responsible for regional cooperation as well as any additional ministers that the partner nations may appoint.

The Council, which also makes decisions by consensus, serves as the Community's policy-making body. It has the authority to adopt (legally binding) regulations, directives, and decisions, as well as to initiate and submit bills to the Assembly and give instructions to the Partners States and other EAC institutions and organs aside from the Summit, Court, and Assembly.

Permanent secretaries in charge of regional cooperation make up the coordinating Committee. It oversees the sectorial committees' operations and submits findings to the Council 31. On the advice of the relevant coordinating Committees, the Council creates the Sectorial Committees. They create the EAC32's programs and oversee their execution. The East African Court of

Justice operates and carries out the Treaty's requirements. Following the summit on the inauguration of judges' official opening, the court officially began operations on November 30, 2001.

The EAC Treaty's article 42 on the Court's rules and oaths of office states that the Court "shall make rules of the Court which shall, according to the terms of this Treaty, control the specific manner in which the business of the Court shall be conducted." The oath and declarations that the Judges and the Registrar of the Court shall take before the Summit upon their appointment or make upon beginning their responsibilities will be prepared by the Secretary General.

In accordance with the EAC Treaty, the Assembly is made up of 52 members: 45 elected members (nine from each Partner State), 7 ex-officio members (the Minister or Cabinet Secretary from each Partner State responsible for EAC Affairs), the Secretary-General, and the Counsel to the Community). The Rules of Procedure give the Assembly the power to create its Standing Committees. Six Standing Committees are now in place to carry out their mission. The Community's executive body, the Secretariat, is run by the Secretary General and his assistants. Moreover, there is a community counsel as well as "such offices as may be deemed necessary by the council."

According to the EAC Treaty, the Secretary General must "act on behalf of the Secretariat where he or she believes it appropriate." The Secretariat performs a wide range of duties outlined in article 71 of the EAC treaty, including initiating, receiving, and submitting recommendations to the Council, collaborating closely with the EALA by forwarding bills through the Coordination Committee, and initiating studies and research related to, and implementing programs for, the most appropriate, speedy, and effective ways of achieving the goals of the treaty.

Apparently, the EAC organs operate according to a special mechanism. For instance, the Treaty stipulates that, although there are restrictions³⁵, it is permissible, when necessary³⁶, for the Summit to grant a member of the Summit, the council, or the Secretary General legislative authority by an Act of the Community.

The Summit guarantees that "all regulations and orders adopted by it under this Treaty" will not only go into effect on the day of publication but will also be formally published in the gazette. The treaty states that only documents bearing the signature of the Secretary General or

"any officer in the service of the community authorized in that behalf by the summit" are deemed official.

THE EAST AFRICAN COURT OF APPEAL

The desire to promote and establish the English Common-law system went hand in hand with administrative government on the colonial agenda in their settlements. Domestic courts were established within the colonies to accomplish this. These domestic courts were not supported by domestic appellate courts, only by the Court of Appeal of Eastern Africa, a regional appellate court.

This Court, which was renamed the Eastern African Court of Appeal under the EACSO, was established later in the day and serviced the High Commission. An Order in Council established the court's jurisdiction, which covered all appeals from national courts on common services and other issues. The domestic laws of the East African countries placed restrictions on this court's jurisdiction under the EACSO.

It was the highest court of Kenya, Uganda, and Tanzania (mainland). The Judicial Committee of the Privy Council in London is the only body to which the court may appeal decisions. Nonetheless, the high court in Bombay continued to hear appeals from Zanzibar until 1914.

His Majesty's Court of Appeal for Eastern Africa was founded in 1909 by a new Order-in-Council; it had its headquarters in Mombasa and employed judges from the protectorates. The Court of Appeal for Eastern Africa underwent another restructuring in 1921.

The Chief Justices of Kenya, Tanganyika, and Uganda, along with the Chief Justice of Zanzibar and the puisne judges of the territories, made up the members, who were not yet employed full-time.

A new, permanent court with a full-time staff (including personnel, a vice president, and one or more justices of appeal) was established in 1950. The higher court judges maintained their right to a seat whenever necessary after the court moved its permanent location to Nairobi.

The British Judicial Committee of the Privy Council was abolished as soon as the East African territories attained political independence, and the Court of Appeal for East Africa was elevated

to the status of a final court of appeal, with no longer being any avenue for appeals from its judgments.

The necessity for a complex system of dispute resolution was one of the problems that the replacement of the Organization with the Community aimed to address.

THE EACJ AND THE OBJECTIVES OF THE EAC

The Treaty's preamble briefly summarizes the EAC's goals, but the Treaty also goes into great detail about them. The current East African Community is largely recognized as a tool for attaining economic development and advancement through cooperation, just as the long-gone East African Community.

The preamble of the Treaty states, among other things, that the Community was established with the goal of achieving rapid and balanced regional development, and that the Partner States resolved to create an enabling environment in all the Partner States in order to attract investments and allow the private sector and civil society to play a leading role in socioeconomic development activities through the development of sound macroeconomic sectorial policies and their effective implementation. Article 5 of the Convention, however, goes into further depth about this goal. According to paragraphs 2 and 3, respectively:

1. The Community's goal is to create policies and initiatives that will enable the partner nations to work together more closely in the areas of politics, economics, social welfare, and culture as well as in research, technology, defense, security, and legal and judicial issues.
2. In order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political, and other relations of the partner states in order that there shall be accession to the European Union, the partner states undertake to establish, among themselves and in accordance with the provisions of this Treaty, a Customs Union, a Common Market, then a Monetary Union, and finally a Political Federation.

After reading the foregoing explanation of the EAC's goals, it is clear that the EAC envisions a wide range of regional cooperation and integration including economic and financial matters, infrastructure and services, research and technology, agriculture and food security,

management of the environment and natural resources, management of tourism and wildlife, and management of social, cultural, and health activities.

The Treaty has established a number of entities with a range of responsibilities in order to successfully achieve the aforementioned goals. It is envisioned that this group of bodies will serve as the treaty's framework for promoting regional peace and security while also offering a suitable response for economic growth and competitiveness in light of trade globalization and multinational businesses. As a part of this institutional framework, the East African Court of Justice is located.

THE ROLE OF THE COURT IN PROMOTING INVESTMENT

The goal of regional integration, as expressed in the EAC, is to generate money, improve the standard of living for all East Africans, and boost the region's global competitiveness. It is hoped that greater production, commerce, and investment into the region will help to realize this vision.

The EAC must establish incentives to entice investors to invest in the area if it hopes to draw more of them. One such driver that might ensure the appeal of investors is the local legal system. Investors can only place their money if they are confident that a quick dispute resolution process will be in place. The ability to draw investment projects has been found to be primarily influenced by the relationship between the host state or region and the investor. Carste Ebenroth and colleagues write the following in this regard:

“The relationships between investors and host states have not always been smooth. It is a relationship that is surrounded by uneasiness, suspicion and to some extent distrust. However in the final analysis, it is a relationship of inter-dependence. Investors on the one hand, would like to gain a reasonable and appropriate profit from their capital and to achieve this they would like to have a free hand in their business with very little, if any, control by the governments of their host countries. The host governments on the other hand would like to ensure that the investment made is useful for the development of their national economy as a whole. In their exercise of sovereign rights, host states feel that they have a duty to control each and every activity taking place within their borders. For developing countries, this issue

takes even a more serious and wider dimension. Presence of powerful investors within their jurisdiction is perceived as a danger threatening their very existence as states.”

Conflicts are certain to arise since the host countries' relationship with the investors is so precarious due to their conflicting interests. Hence, a suitable mechanism for resolving such disagreements is required. The EACJ has a constrained ability to draw investors to the area, as was previously argued. In order to achieve her goals as outlined in the Treaty and draw in more investors, it is imperative that the court's jurisdiction be expanded.

Although it has been suggested that the EACJ plays a significant role in advancing the EAC's goals here, it has also been argued that the EACJ is unable to carry out this duty effectively. So, it is necessary to reevaluate the court's standing in order to make it pertinent to achieving community goals.

ROLE OF THE COURT IN RESOLVING TRADE DISPUTES

The requirement for a dispute resolution system is one of the primary factors driving nations to create international and regional economic institutions.

The presence of such a dispute resolution process has the effect of lowering tensions between nations and encouraging them to settle any trade issues without resorting to force.

It is anticipated that the EACJ will effectively carry out this responsibility inside the EAC. Its standing has a significant impact on its capacity to do so; it is imperative to note that both domestically and internationally, the dimensions of modern trade have significantly risen.

A potential ground for trade disputes and conflicts is necessarily created by an increase in trade and commercial transactions. As a result, everyone engaging in business activities within a region must be confident that an effective dispute resolution mechanism is in place. For this reason, Amaza A. Asouzu (1994) makes the following observations:

“It should be noted that commercial transactions are becoming increasingly complex, making occasions for conflict common and inevitable. However, disputes are a normal part of any legal relationship, much more, those involving money and national policies. The occurrence of disputes puts all the vital interests and stakes implicated in commercial transactions at risk.

Disputes are sources of mistrust and ill feeling. They may accordingly have diverse consequences on the good faith and confidence which are useful ingredients in commercial transactions.

The EAC, therefore, must first assure all commercial stakeholders that the EACJ is a body that will efficiently resolve disputes that may arise in their commercial endeavours. The challenge upon the EAC in general and the EACJ in particular is not to entirely eliminate disputes but to offer expedient solutions when they occur. In this regard, Amaza A. Asouzu writes thus:

“Since disputes are inevitable in commercial relationships, the challenge of international commerce is how to provide for a fair, just and effective mechanism for the resolution when they arise. Effective dispute management is ultimately a prerequisite for an orderly growth of international trade and investment. The certainty, predictability and neutrality of forum assure this.”

As previously said, the court had to overcome a number of obstacles before it could effectively function as a venue for the member countries to resolve disputes. These obstacles existed even before the court admitted the first issue.

CONCLUSION

On the other hand, it is impossible to overlook the reality that intra-African commerce is substantial when compared to expectations. There are several explanations put up as to why regional integration initiatives in Africa have not advanced. The inability of state partners to cede control of macroeconomic policymaking to a centralized regional body and the unwillingness of individual member states to cut and stop existing economic links with non-members are two of the main issues (Johnson, 1995: 1–26).

Since its founding, the East African Community has had an impact on a growing need for a deeper understanding of the significance of regional integration and the role played by their subsequent organs, particularly the sub regional courts in East Africa, within the framework of international law, its tenets, and goals. Even though experts contend that the continent's lack of commitment to bolstering international cooperation frameworks and its unwillingness to be serious about integration, as seen in their article, African regional integration and European

involvement: External agents in the East African Community, published by Veit Bachmann and James D Sidaway, a concluding report reflects that the EAC has made a milestone in achieving most of their goals.

To ensure predictability and stability, there must be a sufficiently extensive legal framework for commercial activity and a functional legal system. Moreover, efficient administrative infrastructures are required to guarantee the successful application of the legal framework. The requirement for a dispute resolution system is, in fact, one of the primary reasons that nations create International and Regional Economic Organizations. The existence of such a mechanism for resolving disputes has the effect of lowering tension between nations and also encouraging them to forego using force to settle any economic issues.

Only when there is a consistent and transparent dispute resolution procedure that is applicable to all of the Partner States can this favorable environment be established? The EACJ is one of the organizations established under Article 9 of the EAC Treaty to help the Community achieve its goals, the main one of which is to realize a rapid and balanced regional development by fostering an environment that will draw investments and enable the private sector and civil society to take the lead in socioeconomic development activities in all of the Partner States.

From its founding until December 2005, when it got its first case, the EACJ was inert. The Assembly brought this historic first lawsuit to determine the constitutionality of the Council's and Secretariat's activities in seizing control of Assembly-led Bills and delaying their presentation to the House.

This first case was brought before there was much worry about the dearth of matters brought before the Court. The Court had issued 24 judgments as of the end of September 2012, 17 application rulings, 6 tax rulings, and one advisory opinion. As opposed to this, the East African Community Development Strategy 2011–2015 It is noted that the Court still has challenges carrying out its duties as the EAC's judicial body.

The partner States' constitutions, where the individual states' court systems were established, do not recognize the EACJ as an institution of the EAC. According to Article 33(2) of the Treaty, the decisions of the EACJ regarding the interpretation and application of the Treaty have precedence over those of national courts in a comparable situation. Given that the Partner States' constitutions do not recognize the EACJ, if there is a disagreement between, example,

a High Court decision and an EACJ decision, a constitutional challenge is likely to favor the decision of the High Court of the Partner State.

Despite making efforts to develop regional economic communities across the continent, progress toward attaining its goals has been gradual and unspectacular.

REFERENCES

- 1) Abashidze A, Koneva A, Soltsev A. (2016). Africa in the Shadow of Tomorrow // Kazan Journal of International Law and International Relations. 2016, pp. 35–38.
- 2) Akiwumi, A. M. (1972) “The Development of the Legislative Process in East African Integration”, 7 (3) Africa Spectrum 30 -47.
- 3) Akiwumi, A.M. (1972) “The East African Community” 6 (2) The Journal of World Trade Law, 203.
- 4) Asouzu, A. A. (1994) “Considering Arbitration as an Incident of Trade and Investment in a African Setting” in a paper presented to the Sixth Annual Conference of the Africa Society of International and Comparative Law, 5-8 Sep in Kampala, Uganda.
- 5) Asouzu, A. A. (1996) “Arbitration as a factor of Integration within the African Economic Community” in a paper presented to the 8 th Annual Conference, 2-4 Sept, 1996, Cairo, Egypt.
- 6) Barnett, H. (2004) Constitutional & Administrative Law, 5 th Edition, Cavendish Publishing Limited, London.
- 7) Belke, A. (2011) “The Euro Area Crisis Management Framework: Consequences for Convergence” 26 (4) Institutional Journal of Economic Integration, 672-704.
- 8) Brown, L. N. and Jacobs, F. G. (2000) “ The Court of Justice of the European Communities,” 5th Edition, Sweet and Maxwell, London.
- 9) Cain, M. And Kulscar, K. (1981-1982) “Thinking Disputes; An Essay on the Origins of the Dispute Industry” 16 (3) Law & Society Review, 375 -402.
- 10) Carter, B.E., Caron D. D., Roessler, F. and Millhauser, M. S. (1991) “Comparative Analysis of International Dispute Resolution Institutions” 85 American Society of International Law, pp. 64- 82.

- 11) Ebenroth, C. T. and Maina C. P. (1996) "Protection of Investment in Tanzania: Some New Issues from Zanzibar" 8 African Journal of International and Comparative Law, 4.
- 12) Ellis, E. and Tridimas, T. (1995) Public Law of the European Community: Text, Materials and Commentary, London, Sweet and Maxwell.
- 13) Gathii James Thuo (2011). African Regional Trade Agreements as Legal Regimes // Cambridge University press 2011, pp. 188–190.
- 14) Ghai, D. P. (1964) "Territorial Distribution of the benefits and Costs of the East African Common Market", 11 (1) The East African Economics Review, 29 -40.
- 15) Guzman, A. T. (2008) "International Tribunals: A Rational Choice Analysis" 157 (1) The University of Pennsylvania Law Review, pp. 171-235.
- 16) Haas, E. B. (1961) "International Integration: The European and Universal Process" 15 (3) International Organisation (366-392).
- 17) Helfer Laurence R. (2015) Sub-regional Courts in Africa: Litigating the Hybrid Right to Freedom of Movement // iCourts Working Paper Series, No. 32, 2015.
- 18) Johnson O. E.G. (1991). Economic Integration in Africa: Enhancing prospects for success // The Journal of Modern African Studies N. 29,1 (1991), pp. 1–26.
- 19) Jones, A. and Budd, S. (1994) The European Community; A Guide Through the Maze, Kogan Page, London.
- 20) Keohane, R. O., Moravesik, A. and Slaughter, A.M. (2000) "Legalized Dispute Resolution: Interstate and Transnational", 54 (3) The MIT Press, pp. 457-488.
- 21) Kiplagat, P. K. (1995) "Jurisdictional Uncertainties and Integration Processes in Africa: The Need for Harmony" Tulane Journal of International and Comparative Law, 43.
- 22) Lauterpacht, H. (1933) The Functions of Law in the International Community, Oxford University Press, London.
- 23) Lenaerts, K. (1990 -1997) "The Development of the Judicial process in the European Community after the Establishment of the Court of the First Instance" 1 (2) Collected Courses of the Academy of European Law.
- 24) Leys, C. and Robinson, P. (Eds) (1965) Federation in East Africa; Opportunities and Problems, Oxford University Press, Nairobi.
- 25) Lubega- Kyazze, J. (2003) "Legal Implications of The East African Community Treaty", 1 The Uganda Living Law Journal, 43.

- 26) Maxon, R. M. (2009) *East Africa: An Introductory History*, East Africa Educational Publishers, Nairobi.
- 27) Merrills, J.G. (1991) *International Dispute Settlement*, 2nd Edition, Cambridge and United Nations, *Handbook on the Peaceful Settlement of Disputes Between States*, New York.
- 28) Muko Ochanda R., Kisolo Wakinya P., Omondi Odipo W. (2013). *Human Rights in the Context of Deepening Integration of East African Community (EAC) // Postmodern Openings*, Volume 4, Issue 2, June 2013, pp. 47–73.
- 29) Njenga. L. N. (2015b) *Activities of the Court of the East African Community*, *Eurasian Law Journal*, №12 (91), pp. 55–57.
- 30) Odek, J. O. (2004) “Re-appraising the Framework for Regional Economic Integration in Africa”, 1 *The East African Law Journal* 47-68.
- 31) Odek, J. O. (Ed.) (2002) “The East African Community Treaty: Its Impact on Kenya,” *Reporting International Treaties*, 1.
- 32) Omas, P. K. (1961) “The Report of the East African Economic and Fiscal Commission”, 8 *The East African Economic Review*.
- 33) Onwuka R. I. et al (Eds.) (1985) *The Future of Regionalism in Africa*, Macmillan Publishers (London).
- 34) Oyugi, W. (Ed) (1994) *Politics and Administration in East Africa*, East African Education Publishers, Nairobi.
- 35) Possi. A 2013 *The East African Court of Justice: Towards Effective Protection of Human Rights in the East African Community // Max Planck Year book of United Nations Law*, volume 17,2013, pp. 173–195.
- 36) Renteln, A. D. (1988) “The Concept of Human Right” 83 *Anthropos*, 343 – 364.
- 37) Sebalu, P.1972 *The East African Community. Journal of African Law*. 1972 Vol. 16, No. 3, pp. 345–363.
- 38) Stefan Reith, Ritz Boltz. 2011. *The East African Community: Regional and Integration between aspiration and reality // KAS International reports* 9.10.2011.
- 39) Stewart, I. G. (1962) “Customs Union in East and Central Africa”9 *Scottish Journal of Political Economy*.
- 40) Whitaker. P 1964. *Political Theory and East African Problems // London Oxford University Press*, 1964, p. 84.