



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY

**REPORT OF THE EALA COMMITTEE ON REGIONAL AFFAIRS AND
CONFLICT RESOLUTION ON: THE PUBLIC HEARING ON THE
COMPLAINTS RAISED IN A MOTION FOR THE PEACE AND SECURITY
DEPARTMENT AT THE EAC SECRETARIAT UNDER THE AFRICAN
PEACE AND SECURITY ARCHTECTURE (APSA) PROGRAMME**

**Clerk's Chambers
3rd Floor, EALA Wing
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Arusha, TANZANIA**

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INTRODUCTION:

1. At its 136th Sitting held on 23rd August, 2016 in Arusha - Tanzania, the Assembly adopted a resolution that required investigations on serious allegations concerning bad governance in the East African Community (EAC) Secretariat. Specifically, the resolution called for the investigations into the tendering process of the Insurance cover for members and staff of the Assembly and the termination and/or attempts to terminate the contracts of staff of the EAC, African Peace and Security Architecture (APSA) Programme. The Rt. Honorable Speaker referred the matter on the Insurance cover to the Committee on Legal, Rules and Privileges and the matter concerning the staff of the EAC APSA Programme to the Committee on Regional Affairs and Conflict Resolution. He directed the two Committees to expeditiously investigate the allegations and report to the House (*See Annexure I*).

BACKGROUND:

2. The EAC APSA Structures are part and parcel of the African Union (AU) peace and security framework. For details (*See Annexure II [a, b, c]*).
3. The African Union (AU) came into being following the successful conclusion of the Organization of African Union (OAU) mandate. The Heads of State then, having successfully completed the role of liberating the continent and the dismantling of apartheid shifted their focus to peace, security and the development of the continent. In their meeting held in 2002 in Durban, the Heads of State then, changed the name from OAU to AU. A number of important things happened. The Heads of State did away with the former constitution that was binding them as the OAU and adopted a *Constitutive Act* which was the guiding instrument for the AU.
4. The Constitutive Act (an equivalent of the EAC Treaty) sets out promotion of peace, security and stability in Africa as one of its major objectives. It was on this basis that the Heads of State adopted the establishment of the *AU Peace and Security Protocol* in 2002 from where the African Peace and Security Architecture (APSA) derives its mandate. The Heads of State further established the AU Peace and Security Council.
5. The AU Peace and Security Council is a standing organ made up of 15 Members elected after every three years. All the EAC Partner States have had an opportunity to serve on it. EAC has the biggest number of representation for the moment.

6. It is important to note that the APSA derives its mandate directly from the Heads of State under the AU Peace and Security Protocol as adopted by the Peace and Security Council and the Heads of State, to facilitate operationalization of peace and security issues in the continent.
7. Following consensus, the Heads of State further established and adopted eight AU recognized Regional Economic Communities (RECs) as pillars of peace and security to the AU. The eight recognized AU REC's include;
 - a) The Community of Sahel-Saharan States (CEN-SAD),
 - b) The Common Market for Eastern and Southern African States (COMESA),
 - c) The East African Community (EAC),
 - d) The Economic Community for Central African States (ECCAS),
 - e) The Economic Community for Western African States (ECOWAS),
 - f) The Inter-Governmental Authority on Development (IGAD),
 - g) The Southern African Development Cooperation (SADC), and
 - h) The Arab Maghreb Union (UAM).
8. The APSA encourages all the eight RECs to have the Peace and Security Councils, only SADC and ECOWAS do have the Peace and Security Councils; the rest of the RECs have dockets.
9. The APSA also requires each REC to have the Early Warning Systems (CEWS) that would be linked to the CEWS based in Addis Ababa, Ethiopia at the AU headquarters. The EAC has this system in place. The concept presupposes that for any intervention in peace and security or prevention, management and resolution, there should be an early warning. Once there are indications of simmering conflicts, the '*Panel of the Wise*' is convened. This panel comprises of credible persons who can talk to and convince the Presidents to cease fire. Each REC is expected to have this function.
10. The East African Standby Force based in Nairobi is another component of the APSA. This comes into force in case the Panel of the Wise option fails. The continental one is called the '*Amani*', a Kiswahili word for peace.
11. The APSA strengthens the relations between the AU, all the eight RECs as well as the Regional Mechanisms (RMs) as per the Memorandum of Understanding (MoU) signed in 2008. The RMs include the East Africa Standby Force, the Northern Africa Brigade, the International Conference for the Great Lakes Region (ICGLR) in the Great Lakes, the Indian Ocean and its small islands. APSA also supports Post-Conflict Reconstruction and Development; Disarmament, Demobilization and Re-

integration programmes (DDR) and Counter-Terrorism programmes, all contained in the AU Peace and Security Protocol.

12. In order to operationalize APSA within the EAC, the 15th Meeting of the Council of Ministers (*See Annexure III*) approved the Capacity Building Project and appointed the EAC/AU Liaison Officer to the AU following the approval by the 8th Meeting of the Summit of Heads of State (*See Annexure IV*) to establish a Liaison Office at the African Union Headquarters. Further, the 16th Meeting of the Council of Ministers appointed the following Officers to operationalize the APSA programme in the EAC:

- a) Peace and Security Expert (P3)
- b) Conflict and Early Warning Expert (P3)
- c) Peace and Security Officer (P2)

13. In line with the need for additional human resource to fully operationalize and support certain peace and security components, the following officers were recruited through a competitive process and joined the APSA unit within the EAC Secretariat. They include:

- a) Senior Analyst (P2)
- b) Senior Technical Specialist (P2)
- c) Programme Officer at the AU (P2)
- d) Project Accountant (P2)

14. The Unit has further continued to benefit from the services of the following support staff since May 1st, 2012:

- a) Administrative Assistant (G5)
- b) Driver (G2)/Arusha
- c) Driver (G2)/Arusha
- d) Driver (G2)/Addis Ababa

Funding For APSA

15. APSA has a road map which has three phases. The *first* one was in 2008 to 2010. The APSA at that time was concentrating its efforts, both monetary and otherwise, on capacity building of the AU and the RECs. This is because it was a new outfit that was coming up. It had to establish structures and establish them both at the AU and at the RECs. This is what happened in all the RECs. That is why you find the Peace and Security Council being supported by APSA. They did a lot of training and quite a number of people were trained in the RECs and the Partner States.

16. The *second* Phase was in 2011 to 2013. This was mainly on operationalization or putting into action the pillars, that is, the creation of the Peace and Security Council; the Early Warning Systems; the Panel of the Wise for intervention; and the training of the Africa Standby Force – in the EAC case it is the East African Standby Force.
17. The *third* phase is from 2016 to 2018. It must be emphasized that APSA is mainly supported by the European Union (EU), and in the case of the EAC, that is, 100 per cent. Why is this so? Africa and Europe have a strategic partnership in all areas, for example, governance, development, infrastructure, energy and also peace and security. There is the EU/Africa strategic partnership on peace and security. It is through this that the EU committed itself to fund the APSA whose negotiation has started way back in 2005. The commitment came in the EU/AU Summit in Lisbon in 2008 when EU committed to fund APSA. EU committed to provide money for the Peace and Security Protocol. In brief, EU has been the sole funder of APSA. Indeed, it has been successfully funded.
18. Unfortunately, by the end of the year the funds were not exhausted because it started late. Hence, they were carried over to 2012. The 2011/2013 funds came and by the end of December, 2013 the funds were not exhausted. The same pattern applied to the subsequent financial year 2014/2015. This time round there were no new funds provided for the third phase. EU did not disburse more funds on account of the fact that earlier disbursements had not been fully utilized. By July, 2015 the funds were not finished and there was reluctance on the part of the EU to sign for new funds when the other ones were not finished. EU gave what they call “*a no cost extension*” (*See Annexure II [a]*). This means that you finish what you have, but no new activities. It means that you continue giving salaries to the employees, but do not initiate any activities. They eventually got finished in August 2015. EAC was now supposed to start negotiations for fresh funds. The negotiations actually started.
19. There is currently a new phase which should have started in January, 2016 and ending in December, 2018. That is the phase we are in at the moment. The EU has committed itself in writing to fund the programme. The negotiations on funding have been concluded. They have committed themselves in writing that the third phase ending in December, 2018 will be funded by the EU (*See Annexures II [a] and V*) respectively. The process has been delayed due to the fact that AU and some RECs have not completed preparing the action plans.

20. Owing to a number of reasons, including the AU Fiduciary Assessment, the AU has been unable to remit funds to cater for both staff and activity needs. To rescue the situation, the EAC Secretariat has given funds from its own budget funded by the Partner States contribution in order to continue supporting the staff and activities under the APSA Project to the tune of USD \$320,000 since January 2015 on the understanding that the money will be refunded when disbursements for the APSA Project are received from AU (*See Annexure VI [a, b, c, d, e, f, g, h]*).
21. Nonetheless, due to the liquidity problems encountered by the EAC Secretariat and compounded by the delayed budget contributions from the Partner States, and the long delay in getting disbursements for the APSA AU to support the APSA Project, it became a challenge to sustain the APSA staff (*See Annexures VI [a, b, c, d, e, f, g, h]*).

Decision by the Secretary General to terminate employment contracts for APSA Project Staff

22. In June 2016, the Secretary General gave instructions to the Director Human Resources and Administration to terminate the contracts of APSA Project staff due to lack of funds to sustain their continued employment and activities (*See Annexure VI [a]*).
23. The matter was subsequently referred to the Human Resource Advisory Committee by the Director Human Resources and Administration (DHRA) for consideration and appropriate advice to the Secretary General (*See Annexure VII*).
24. Notwithstanding the legal advice from the Counsel to the Community (CTC) (*See Annexure VIII [a]*), the Secretary General reiterated the decision to issue termination notice to the APSA Project staff due to lack of funds (*See Annexure VIII [b]*).

METHODOLOGY:

25. The Committee organized and held public hearings on 1st – 2nd September 2016 (Arusha, Tanzania); on 10th – 11th October 2016 (Zanzibar, Tanzania), on 9th – 12th November 2016 (Arusha, Tanzania); and on 22nd – 23rd November 2016 (Nairobi, Kenya) in response to a matter of public importance brought by Hon. Bernard Mulengani before the House and referred to the Committee by the Rt. Hon. Speaker for investigating and reporting.
26. The Committee also identified and extended notices of invitation to witnesses to participate in hearings. A number of witnesses on the APSA Project Staff appeared

and provided both oral and written evidence and or submissions before the Committee under oath. They include a Minister in the President’s Office responsible for EAC Affairs from the Republic of Burundi, the Secretary General (SG), the Deputy Secretary General in charge of Planning and Infrastructure (DSG-PI)-*cum*-Acting Deputy Secretary General in charge of Finance and Administration (Ag. DSG-F&A), Deputy Secretary General in charge of Political Federation (DSG-PF), Counsel to the Community (CTC), Director Human Resources and Administration (DHRA), Ambassador Ben Rutsinga, the AU/EAC Liaison Officer in Arusha at the EAC headquarters and all the eleven APSA Project Staff whose contracts were terminated. Those who appeared and addressed the Committee include:

List of witnesses served notice to appear before the committee

- | | | | |
|--------|------------------------------|---|--|
| i. | Hon. Dr. Suzan Kolimba | - | Chair Council of Ministers, Minister FoAEAC, URT |
| ii. | Hon. Leontine Nzeyimana | - | Minister for EAC Affairs, Burundi |
| iii. | Hon. Bernard Mulengani | - | EALA MP & mover of the motion |
| iv. | Amb. Liberat Mfumukeko | - | EAC SG |
| v. | Dr. Enos Bukuku | - | DSG-PI & Ag. DSG-F&A |
| vi. | Mr. Charles Njoroge | - | DSG-PF |
| vii. | Dr. Antony Kafumbe | - | CTC |
| viii. | Mr. Joseph Ochwada | - | Director HRA, EAC Secretariat |
| ix. | Amb. Ben Rutsinga | - | AU/EAC Liaison Officer |
| x. | Mr. Leonard Mbotela Onyonyi | - | Small Arms and Light Weapons Expert |
| xi. | Mr. Benoit Bihimiriza | - | Conflict and Early Warning Expert |
| xii. | Mr. Didacus Bazirakye Kaguta | - | Peace and Security Expert |
| xiii. | Ms. Ethel Sirengo | - | Programme Officer/AU Addis Ababa |
| xiv. | Mr. Frederick Sangawe | - | Project Accountant |
| xv. | Mr. Patrice Mulama | - | Senior Analyst Officer (Early Warning) |
| xvi. | Mr. Leonard James Ngeleja | - | Senior Technical Specialist (Early Warning) |
| xvii. | Ms. Tereza T. Mnondwa | - | Administrative Assistant |
| xviii. | Mr. Edward Mugarra | - | Driver/Arusha |
| xix. | Mr. Jonson Daniel | - | Driver/Arusha |
| xx. | Mr. Daniel Tsegaya | - | Driver/EAC Liaison Officer, Addis Ababa |

Procedure for public hearings

27. The Committee held four sessions to discuss method of conducting the public hearings and generating a report for the plenary. The Committee prioritized several procedural issues in their deliberations. First, the Committee established that the Assembly has a mandate to deal with this petition. This is as articulated in Article 49 (d) of the Treaty for the Establishment of the East African Community which mandates the Assembly to “discuss all matters pertaining to the Community and make recommendations to the Council as it may deem necessary for the implementation of the Treaty.” Second, members agreed that to conduct the hearing would follow a defined pattern. Witnesses would present their opinion on the complaints either

orally, or written submissions, or both followed by questions and clarifications from members. Witnesses would then be invited to respond to questions and give clarifications. Members agreed to refrain from articulating their positions during the hearings. The Committee agreed to deliberate on both the oral and written submissions in the public hearings and to provide drafting instructions on the report. Finally, the Committee agreed to allow members to submit written proposals, observations, and recommendations as part of record for the complaints. The Committee further mandated the Chair to establish a sub-committee of three members to work with the Committee Clerk to draft the report and report back to the Committee on Saturday 21st January 2017 in Kampala, Uganda.

COMMITTEE OBSERVATIONS:

28. APSA is very important institutional framework that is critical to peace, security and stability in Africa and globally. At the level of the EAC Peace and Security, it is one of the necessary ingredient for the integration process. One could even argue that it is the main *raison d'être* for integration at EAC and at AU.
- a) The Committee observed that not all the institutional structures required by APSA have been put in place in EAC. The Committee appreciates the teething problems including the lack of a sustainable funding mechanism.
 - b) The Committee noted the efforts of the Council of Ministers to back the proper establishment and functioning of the APSA structures in EAC.
 - c) The Committee noted that the relations between the AU, on one hand and the REC's on the other hand, needs to be clearly defined and refined including by addressing intra-relations between the RECs. Additionally, the flexibility in those relations should be reviewed and ways of enhancing the subsidiarity principle. At the level of relations with other partners including the EU, the AU should allow for a devolved system that rewards effectiveness in individual REC's.
 - d) The Committee observed that there is need to address the challenges facing APSA structures at various levels and ensure effectiveness of those structures including, the legal and partnership agreements and instruments at all levels; harmonization of procedures and mechanism including development of capacity; identification and retention of staff, contracting; addressing the challenge of sustainable funding; improving coordination at all levels; and the completion of the ratification process by Partner States of the EAC Peace and Security Protocol and the attendant institutions.

29. The Committee observed that there seems to be lack of understanding and/or full appreciation of the role, functions, structures and methodology of the EAC APSA structures by other organs of the Community. Specifically, the Minister for EAC Affairs from Burundi raised objections on some of the reports of the situation room gathered from open sources at a meeting of the Council of Ministers. The same objections were raised by the Minister at the Committee hearings (*See Annexure IX*). The Minister tabled samples of the reports when she appeared before the Committee. The Committee has decided not to include these sample reports as part of the record for the following reasons;
- a) The reports were introduced into the record of the Committee without foundation and proper procedure. The reports are generated and submitted to the Deputy Secretary General and in turn to the Secretary General as part of a confidential peace and security brief. The reports are not intended for public consumption and in fact introduction into the record may have the negative impact that the Minister from Burundi was unhappy about.
 - b) The introduction of the said reports from open source without the accompanying analysis report and/or policy advice including what the leadership of the Secretariat finally decided to act on or not to act on and/or any policy advice they afford the Council of Ministers, will lack completeness of context and may even interfere with the protocols of APSA, the independence of the early warning system and the role of the Secretariat in the performing of their duties.
 - c) Part of the source of the problem is the delay in the setting up of the EAC Peace and Security Council which is a critical institution in the APSA. The Security Council will be a specialized entity with the requisite capacity and competence to handle all matters of Peace and Security in the Community. It is designed to interact with the EAC APSA structures in professional and an informed manner. On the other hand, the Security Council can only be established once the ratification of the EAC Peace and Security Protocol has been completed and its implementation has commenced.
30. Some members of staff of the EAC APSA structures gave the opinions touching on interference and/or attempts of interference on the work of staff of EAC APSA structures (*See Annexures VI [d, e, f, g]*). One went further to file details of what he perceived to constitute interference bordering on threats or intimidation (*Annexure VI [i]*). The details did not include evidence of the person or persons that were responsible of the negative image and /or characterization directed at him which was distributed in the public domain. The witness withdrew the detailed submissions from the record but retained his firm belief that he held the view there was attempts to interfere with the work of the staff of the EAC APSA structures.

- a) The Committee decided to expunge the record of the document that was withdrawn. On this specific matter, the Committee is of the opinion that part of the complications that have arisen are due to the breach of the protocol that are in place currently such as accessing and circulation of confidential documents of the EAC APSA work without permission and authority and lacking proper context of the purpose, and completeness of record of those documents. Unauthorized, Selective and partial release of the documentation of the EAC APSA structures may be used to unfairly cast aspersions on those structures and its staff.
 - b) The Committee held the view, in order to safeguard the integrity, work and safety of staff of the EAC APSA structures, their work and working atmosphere need to be immunized from breach and intrusion by both state and non-state actors outside the official channels. The integrity and confidentiality of the sensitive work of the EAC APSA structures need to be upheld and protected. The Committee further held the view that this safeguard on the integrity of the work of the EAC APSA structures will guarantee the credibility and viability of the policy advice and or actions coming from those structures,
31. The Committee observed that the EAC APSA structures cannot be fully developed without the implementation of the EAC Peace and Security Protocol that is in the final stages of ratification by Partners States.
 32. Given the importance of peace and security to the EAC region and its integration process, the Assembly needs to play its part in the establishment of this critical unit. The Assembly should build its oversight capacity to handle peace and security matters. The Assembly should also create synergies between the work of other EAC organs and institutions in peace and security and the work of the Assembly. In particular, the Assembly should work hard to establish the East African Parliamentary Centre for peace and security. Thus there should be direct linkage between the infrastructure for peace and security in the Community and the work of the Assembly.
 33. The attempt to dismiss the EAC APSA staff and by extension shut down the EAC APSA structures was done without following the required procedures for termination in EAC (*See Annexure X [a, b]*). This process was not in tandem with human resource best management practices (*See Annexures VI [d, e, f, g]*).
 34. The decision making of the Secretary General on this matter and the decision arrived at does not demonstrate that they were not done in accordance with the EAC Staff Rules and Regulations and the 34th Meeting of the EAC Council of Ministers' Report (*See Annexure X [a, b]*). Additionally, the leadership style of the Secretary General alienated or excluded the input and advice of all other personnel in the Secretariat. The Committee could not find a single individual who agreed with the actions of the Secretary General on this matter. The Secretary General did not explore in totality all

advice, technical input or suggestions with less drastic and/or intrusive action with less risks. He was not interested in any other solution or outcome that would have retained the staff concerned or keep the structures functioning.

35. The institution of the case by **some** of the aggrieved staff members in the East African Court of Justice (EACJ) complicated the matter further. The Counsel to the Community was put in a difficult conflictual situation: His written advice to the Secretary General was unambiguously clear that the actions about to be taken by the Secretary General were not backed by law and policy. Yet, the Treaty requires his office to represent the Secretary General and the Community in court. This situation may create serious conflict of interest that is not compatible with principles of good governance and other aspects detailed in Articles 6 (d) and 7 (2) of the Treaty. Further, the action of the institution of the case could have easily created a situation of conflict between various organs of the community based on the principle of separation of powers. The Committee appreciates the leadership of the Council of Ministers on this aspect. The Committee held the view the Council of Ministers may have to revisit this matter to address some of the more serious consequences arising from the actions of Secretary General including the conflictual situation that the office of Counsel to the Community was put under.
36. Were the Council of Ministers not intervened, the Committee would have had to make a determination on whether it was ceased of the matter, or not on the account that the matter was before court. The Committee would have had to decide whether the matter fell within parliamentary jurisdiction, or was to be considered as a matter falling under the domain of *sub-judice*.
37. The Council of Ministers has pronounced itself on this matter. The Committee commends the initial action taken by the Council of Ministers to direct the Secretary General to rescind the termination letters of the staff contracts under Peace and Security department the contracts (*See Annexure X [b]*).
38. Based on the decision of the Council of Ministers, the Secretary General and the **Counsel** to the Community were directed to settle the matter amicably out of court. The implementation of the decision of Council also faced the challenge of delay of action from the Office of the Secretary General. It took the decision of the East African Court of Justice for the letters revoking termination of APSA Staff to be filed in court albeit with back dated letters from the Secretary General's office (*See Annexure XI*).

Effects of the decision to terminate contracts of EAC APSA Staff Members

39. The African Peace and Security Architecture (APSA) structures in the EAC plays two important functions, namely; the carrying out of the role, function and delivery of responsibilities related to peace and security matters in the region as well as its related contribution to the African Union infrastructure and secondly, supporting and

carrying out of various aspects of the mandate and functions of the Political Federation docket. Thus the shutting down of the EAC APSA structure and team will have negative impacts on the Community and consequently further adverse effects to the African continent:

40. The *first* negative impact relates to –

- a) Immobilize the Conflict Early Warning system that is designed to aid the Community to proactively address situations that may lead to conflict or timely intervention to peace in the region.
- b) Undermine the ability and capacity of the Community to engage in peace making and peace building efforts in the region.
- c) Disrupt various ongoing efforts to counter threats to Peace in the region such as the anti-piracy interventions in the Indian Ocean, counter terrorism measures in the region, intelligence sharing, planning and execution of joint actions etc. All these critical aspects of making our region and the continent secure is dependent and founded on the coordinating function of the EAC APSA structures and team.
- d) Destabilize the EAC institutional arrangements that involves working closely in partnership with those of Partner States will be removed and EAC institutions such as the regional Police forensic laboratory, the Regional Defense and Counter Terrorism Centre will be negatively impacted.
- e) Unsettle the election Support Programme of the community including pre-election, election and post-election activities designed to benefit Partner States to organize and carry out free, fair, peaceful and credible elections under their jurisdictions. This aspect includes the setting up and facilitation of EAC Election Observation Missions.
- f) Diminish the ability of the Community to continue to develop and institutionalize the setting up of the vital components required by the APSA structures such as the operationalization of the Panel of the Wise and the EAC Security Council. This aspect in particular may be debilitating bearing in mind the Partner States are in the final stages of ratifying the EAC Peace and Security Protocol that will require implementing. It should be noted that this protocol has taken fairly a long time to put together and at the point where it requires implementation the necessary institutional framework for its operationalization would have been dismantled.
- g) Compromise the capacity and expertise carefully nurtured and built over the years in terms of competencies, human resource, and institutional memory and so on. The Community will have to start from ground zero.

41. Other adverse impacts relates to the ability and capacity of the Political Federation docket to carry out its mandate. This is particularly so given the fact that about two thirds of the staff of this docket are funded by and are part and parcel of the EAC APSA structure and team. The resulting radical reduction of the capacity of this docket will undermine the careful negotiations and development of proposals on how to handle the ultimate pillar of the Community that is the establishment of the Political Federation as the fourth and final pillar of integration. At this level the sensitive processes such as the proposed constitution making process and the attendant transformation of the Treaty for the establishment of the EAC will be affected.
42. Further adverse impact relates to the undermining of the working relations in the Secretariat. This particular aspect has the potential of having long term effects and complications on the effectiveness of the Secretariat. At this level there are two important facets that will need to be addressed that are the decision making and working relations at the Secretariat.
43. In respect to decision making the Committee notes that all decisions made on behalf of the Community need to be made in good faith, in the interest of the Community, in conformity with the law and policy and judiciously. In this instance, the Committee is convinced the above criterion was not met. The decision was made by the Secretary General without the support of Community law, policy and rules (*See Annexure X [a, b]*). The over reach and poor judgement, at the very least, sets a bad precedent that should never be allowed to stand.
44. In respect to working relations at the Secretariat, the Committee notes that the irregularities under which the attempts to terminate the contracts of all the staff working for the EAC APSA structures has undermined the working relations and trust amongst staff members. In particular, the Committee is concerned that there were no proper consultations between the office of Secretary General and other senior personnel including at the level of DSGs and Counsel to the Community respectively (*See Annexures VI [c, d] & VIII [a]*).
45. Further, the reluctant rescinding of the attempted termination of contracts coupled with the disturbing fact that the evaluation processes that are required to make fair and independent administrative actions in relation to either renewing or not renewing contracts of concerned staff members that are coming to an end in the next two months. Ordinarily those processes should have started by December 2016. Given what has gone on, the processes need to be above board to avoid the eventuality or perception that the Secretary General may be able to achieve by other means what he failed to do through un-procedural and unlawful means.
46. At the time of writing this report, the Committee received and interacted with the Secretary General on a letter he wrote to the Rt. Hon. Speaker (*See Annexure XII*) on APSA Project. During the interaction, the Secretary General reported to the

Committee that he has already re-allocated funds from available budget lines the 11 APSA Project Staff while awaiting disbursement from the AU. He further reported to the Committee to have renewed the contracts of the 11 APSA Project Staff to 30th June, 2017.

RECOMMENDATIONS:

47. **To the Council of Ministers:** The Committee appreciates the principled way it handled the matter and recommends as follows:
- a) To ensure that the Secretary General implements decisions of the Council fully on this matter.
 - b) To fast track the completion of the ratification process of the EAC Peace and Security Protocol and its implementation including the setting up of the EAC Security Council, the stand by force, the Panel of the Wise and related institutional capacities and structures.
 - c) To ensure the operationalization of its previous decisions including re-instating and directing that the staff of the EAC APSA structures to be mainstreamed into the EAC structures and payroll.
 - d) To cause to be prepared a supplementary budget to bridge the funding gap for the EAC APSA staff in this financial year.
 - e) To appreciate and respect obligations under APSA management and related protocols.
 - f) That Council considers development of regulations for lifting of immunity of officers of the Community who make decisions that are not done according to the law.
 - g) To recommend to the Council to recommend to the African Union that it works with the various RECs who are part of the AU-APSA structures to enhance the effectiveness of the devolved structures in those Communities including the funding, coordination, contracting of staff.
 - h) To further urge the Council to call upon the AU to employ a proactive engagement with the EU on matters of funding the APSA programme on sustainable basis.

48. **To the Secretary General:** The Committee noted with concern a number of irregularities in the process of decision making in this matter which may expose the Community at risk. The Committee further recommends as follows:-

- a) That the Secretary General adheres to the provisions of the Treaty for the Establishment of the Community in respect to his mandate.
- b) That the Secretary General should expeditiously implement fully the decisions of the Council of Ministers without reservation.
- c) That the Secretary General is adopts a consultative leadership style and team work that is guided by principles of good governance within the Community in general and the EAC Secretariat in particular.
- d) That the Secretary General should work closely with the African Union structures to strengthen the EAC APSA Structures.

49. The Committee recommends to **the Assembly** as follows:

- a) To build and enhance its oversight capacity to handle matters of peace and security.
- b) To create synergies between the work of other EAC organs and institutions in peace and security and the work of the Assembly.
- c) To cause the Council to hold an annual debate on the report to be submitted to it by the Council on progress made by the Community in the development of its foreign and security policies.
- d) To operationalize the East African Parliamentary Institute (EAPI) and specifically work to establish the East African Parliamentary Centre for peace and security as part of EAPI institutional framework.
- e) To work with the Council to fund its activities that may not be catered for in the budgeting process and avail funds to support oversight activities.
- f) To continue to monitor diligently the EAC APSA structures to ensure that they work properly without interference.

ACKNOWLEDGMENT:

50. Finally, the Committee would like to thank the following personalities and institutions for having facilitated the investigation of the complaints raised in the motion for the Peace and Security Department at the EAC Secretariat under the African Peace and Security Architecture (APSA) Programme:-

- (a) The Rt. Hon. Speaker EALA for facilitating and making sure that the Committee got the funding to enable it carry out its investigation effectively;
- (b) Various witnesses for turning up to share with and testify to the Committee their evidence on the complaints raised in the Motion for the (APSA) Programme at the EAC Secretariat; and
- (c) The Office of the Clerk for ensuring that all logistics were in order prior to the commencement of the investigation on the complaints raised in the motion for the (APSA) Programme at the EAC Secretariat.

REGIONAL AFFAIRS AND CONFLICT RESOLUTION COMMITTEE MEMBERSHIP

*(Report of Public Hearing on the Complaints raised on a motion for APSA
(1st September, 2016 to 18th January, 2017)*

| NAME: | | SIGNATURE: |
|----------------------------------|---|-------------------|
| 1) Hon. Abdullah Mwinyi | - | ----- |
| 2) Hon. Abubakar Ogle | - | ----- |
| 3) Hon. Abubakar Zein | - | ----- |
| 4) Hon. Adam Kimbisa | - | ----- |
| 5) Hon. Francois Xavier Kalinda | - | ----- |
| 6) Hon. Chris Opoka-Okumu | - | ----- |
| 7) Hon. Dora Byamukama | - | ----- |
| 8) Hon. Dr. Martin Nduwimana | - | ----- |
| 9) Hon. Emmanuel Nengo | - | ----- |
| 10) Hon. Jean Marie Muhirwa | - | ----- |
| 11) Hon. Martin Ngoga | - | ----- |
| 12) Hon. Mike K. Sebalu | - | ----- |
| 13) Hon. Pierre-Celestin Rwigema | - | ----- |
| 14) Hon. Sara T. Bonaya | - | ----- |
| 15) Hon. Twaha Issa Taslima | - | ----- |

LIST OF ANNEXES

| ANNEX | | DESCRIPTION |
|-------|--|--|
| I | | - Memo from Rt. Hon. Speaker referring APSA concerns for investigation - Hansard proceedings of 23 rd August 2016 |
| II | <i>[a]</i> <i>[b]</i> <i>[c]</i> <i>[d]</i> | - Hansard proceedings of Thursday, 10 th November, 2016 (Amb. Ben Rutsinga), Arusha - MoU Between AU and EAC - Submission by DHRA - Updates to Ag. DSG (FA)/DSG (PI) on APSA |
| III | | 15 th Council of EAC Ministers |
| IV | | 31 st Extra-Ordinary Council |
| V | | - AU/EAC Note Verbales - Approved EU funding (Phase III – 2016 to 2018) |
| VI | <i>[a]</i> <i>[b]</i> <i>[c]</i> <i>[d]</i> <i>[e]</i> <i>[f]</i> <i>[g]</i> <i>[h]</i> | <i>Hansard Proceedings:-</i> <i>[a]</i> - Thursday, 1 st September, 2016 (CTC, Ag. DSG (FA)/DSG (PI), SG), Arusha <i>[b]</i> - Monday, 10 th October, 2016 (DHRA), Zanzibar <i>[c]</i> - Tuesday, 11 th October, 2016 (DSG (PF), Zanzibar <i>[d]</i> - Tuesday, 11 th October, 2016 (Benoit & Sirengo), Zanzibar <i>[e]</i> - Wednesday, 12 th October, 2016 (DSG (PF) & Kaguta, Zanzibar <i>[f]</i> - Wednesday, 9 th November, 2016 (CTC and Ngeleja), Arusha <i>[g]</i> - Monday, 10 th November, 2016 (Patrice and Tereza), Arusha <i>[h]</i> - Tuesday, 22 nd November, 2016 (SG), Nairobi |
| VII | | Human Resource and Advisory Committee Minutes and documents |
| VIII | <i>[a]</i> <i>[b]</i> <i>[c]</i> <i>[d]</i> | - CTC Submission - Termination Letters - Joint Submission by APSA Staff in response to termination of Service - Joint Submission by APSA Staff in to Committee on RACR |
| IX | | <i>Hansard of Wednesday, 23rd November, 2016 (Hon. Leontine & Benoit), Nairobi</i> |
| X | <i>[a]</i> <i>[b]</i> | - Staff Rules and Regulations - 34 th Council of Ministers Report |
| XI | | Withdrawal of Termination Letters |
| XII | | SG's Letter to Rt. Hon. Speaker |