
THE EAST AFRICAN COMMUNITY

BILLS SUPPLEMENT

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THE EAST AFRICAN COMMUNITY

THE ADMINISTRATION OF EAST AFRICAN COURT OF
JUSTICE BILL, 2016

MEMORANDUM

The objective of this Bill is to operationalise provisions of the Treaty relating to the East African Court of Justice, strengthen the independence and streamline the administration of the Court.

The Bill seeks to provide for the efficient and effective administration of the East African Court of Justice, rationalization of its judicial independence, establish structures of administration, provide for employment and disciplinary control of the Court's employees and other matters incidental to the above objectives.

HON. CHRIS OPOKA OKUMU,
Member, East African Legislative Assembly.

THE ADMINISTRATION OF THE EAST AFRICAN COURT
OF JUSTICE BILL, 2016.

ARRANGEMENT OF CLAUSES

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**THE ADMINISTRATION OF THE EAST AFRICAN
COURT OF JUSTICE BILL, 2016**

A Bill For an Act

ENTITLED

**THE ADMINISTRATION OF THE EAST AFRICAN
COURT OF JUSTICE ACT, 2016**

**An Act of the Community to make provisions for the
establishment of a Commission for the Administration of
the Court and for other related purposes.**

ENACTED by the East African Community and assented to by
the Heads of State.

PART I—PRELIMINARY

1. This Act may be cited as the Administration of the East African Court of Justice Act, 2016. Short title

2. In this Act, unless the context otherwise requires— Inter-
pretation

‘Assembly’ means the East Africa Legislative
Assembly established by Article 9 of the
Treaty;

*Administration of the East African
Court of Justice Bill, 2016*

- ‘Commission’ means the East African Court of Justice Commission established by section 3;
- ‘Community’ means the East African Community established under Article 2 of the Treaty;
- ‘Council’ means the Council of Ministers established by Article 9 of the Treaty;
- ‘Court’ means the East African Court of Justice provided for under Article 23 of the Treaty;
- ‘financial year’ means a period of twelve months commencing on the 1st July and ending on the 30th June;
- ‘Judge’ means a judge of the Court provided for under Article 24 of the Treaty;
- ‘plenary’ means the Court Plenary established under section 9;
- ‘President’ and ‘Vice President’ mean the judges designated as such under Article 24(4) of the Treaty;
- ‘Principal Judge’ and ‘Deputy Principal Judge’ mean the judges designated as such under Article 24(5) of the Treaty;
- ‘Registrar’ means the Registrar of the Court provided for under Article 45(1) of the Treaty;
- ‘Rules of Procedure’ means the East African Court of Justice Rules of Procedure 2013;
- “Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

*Administration of the East African
Court of Justice Bill, 2016*

‘Summit’ means the Summit of Heads of State established by Article 9 of the Treaty;

‘Treaty’ means the Treaty for the Establishment of the East African Community.

PART II—THE EAST AFRICAN COURT OF JUSTICE COMMISSION

3. (1) There is established a Commission known as the East African Court Of Justice Commission. Establishment of Commission

(2) The Commission shall be composed of—

(a) the President of the Court;

(b) the Principal Judge;

(c) the Chairperson of the Council of Ministers who shall be an ex-officio member;

(d) one judge from each division of the Court elected by the judges of the respective division, except the Vice-President;

(e) the Counsel to the Community who shall be an ex-officio member; and

(f) the Registrar who shall be the Secretary to the Commission.

(3) The President shall be the Chairperson of the Commission, and in his or her absence or in the event of a vacancy in the office of President, the Vice President shall serve as Chairperson of the Commission.

4. The Commission shall—

(a) manage, organize all the business and programs of the Court;

Functions of the Commission

- (b) establish such committees to address different aspects as it deems fit;
- (c) make recommendations to the Council on salaries and other terms and conditions of service of the Judges, Registrar and other staff of the Court;
- (d) recommend to the Council the appointment of the Registrar and other officers of the Court;
- (e) make recommendations to the Council on appointment, promotion and exercise of disciplinary control over officers and staff of the Court;
- (f) cause to be prepared in each financial year estimates of revenue and expenditure of the Court for the next financial year;
- (g) recommend to the Council the staff rules and regulations for the staff of the Court;
- (h) perform such other functions as maybe necessary to ensure efficient and effective functioning of the Court.

Tenure of
office

5. (1) Members of the Commission other than the President, the Chair of the Council of Ministers, the Counsel to the Community and the Registrar shall be elected as soon as this Act comes into force.

(2) Members of the Commission under section 3(2)(d) shall be elected from among the judges serving the Court during the first meeting of the Commission and shall hold office for a period of 3 years, and shall be eligible for re-election once.

6. (1) A member of the Commission shall cease to hold office upon— Vacation of office

- (a) the delivery of his or her resignation in writing to the Chairperson;
- (b) ceasing to hold the office for which he or she is designated under section 3; or
- (c) ceasing to be a judge of the Court in accordance with Articles 25 and 26 of the Treaty.

7. (1) Every decision of the Commission shall be by consensus. Decisions of the Commission

(2) Where on any matter consensus cannot be obtained, the matter shall be decided by voting and shall have been decided if supported by a majority vote of members present and voting.

(3) In the event of a split vote, the Chairperson of the Commission shall have a casting vote.

(4) The Commission may act notwithstanding the absence of any member or vacancy in the office of a member.

(5) The Commission may regulate its own procedure.

8. (1) The Commission shall meet at least twice every year. Proceedings of the Commission

(2) The Commission may, in addition hold extra ordinary meetings as and when deemed necessary.

(3) All meetings of the Commission shall be convened by the Chairperson by giving a not less than fourteen days' notice to the members.

(4) Two thirds of the members of the Commission may, in writing signed by each member call for an extraordinary meeting of the Commission, specifying the agenda to be considered for discussion.

(5) The quorum of the Commission shall be by a simple majority.

Court
Plenary

9. (1) The Court shall have a Plenary which shall be composed of all the judges of the Court.

(2) The Plenary shall—

(a) approve the court's strategic and development plans;

(b) monitor and provide oversight to the implementation of the Court's strategic plan;

(c) approve for submission to the Council, a report from the Commission on the planned activities of the Court for each financial year;

(d) establish such Committees as are necessary for the efficient functioning of the Plenary;

(e) perform any other functions incidental to the general oversight of the Court's performance and operations.

(3) The Registrar shall be the Secretary to the Plenary and an ex-officio member.

PART III—REVIEW OF TERMS AND CONDITIONS OF SERVICE FOR
JUDGES AND STAFF OF THE COURT

10. (1) The Commission shall from time to time recommend to the Council proposals for the review of terms and conditions of service of the Judges and staff of the Court.

Review of
terms and
conditions
of service

(2) The terms and conditions of service of the Judges of the Court shall be determined by the Summit upon the recommendation of the Council.

PART IV—OFFICES OF THE COURT

11. The Commission may make recommendations to the Council to—

Creation of
offices of
the Court

(a) create such number of offices as will ensure the efficient functioning of the Court; and

(b) create, abolish, reclassify or change any designation of offices in the Court.

12. (1) The Registrar shall—

Functions of
the office of
Registrar

(a) be the head of the Court's administration and serve as Secretary to the Commission;

(b) provide advice and recommendations to the Plenary on the conduct of the Court's business;

(c) be responsible to the Chairperson of the Commission for the efficient conduct of the business of the Court and the Commission;

- (d) carry out such other duties and exercise such powers and judicial functions as may be conferred upon him or her by the Treaty, any law, rules, regulations and practices of the Court.

(2) If the office of Registrar is vacant, or if for any reason the Registrar is unable to exercise the functions of his or her office, any officer for the time being performing the duties of the Registrar pursuant to the Staff Rules and Regulations shall have and may perform all functions, duties and powers of the Registrar.

PART V—FINANCIAL PROVISIONS

Financial
resources

13. The Commission shall ensure that—

- (a) the Court operates bank accounts as are necessary for the efficient discharge of the court's functions in accordance with the Financial Rules and Regulations; and
- (b) the resources of the Community are utilised to finance the activities of the Court as shall be determined by the Assembly on the recommendations of the Council.

PART VI—MISCELLANEOUS

Reports

14. The Commission shall submit to the Council bi-annual reports on the activities and operations of the Commission which shall include such other information as the Council may direct.

Regulations

15. The Council may make regulations generally for giving effect the provisions of this Act.