



**EAST AFRICAN COMMUNITY**

**4<sup>TH</sup> MEETING OF THE 2<sup>ND</sup> SESSION OF THE  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**Kampala, Uganda  
19<sup>th</sup> -31<sup>st</sup> January 2014**

**PRIORITY QUESTIONS FOR ORAL  
ANSWERS**

**January 2014**

**1.0 QUESTION : EALA/PQ/OA/3/35/2013 (By Hon. Yves Nsabimana)**

*The EAC Common Market Protocol was signed on 20th November, 2009, and its implementation date was assigned to 1st July 2010. Among its important provisions is part D and specifically Article 10 which grants free movement of labour for workers within the EAC region. For the Article to be enforced the EAC Common Market protocol provides for regulations specified in its Annex II and specifically, Regulation 15 which extensively covers matters related to the free movement of labour. It also specifies dates within which Partner States were expected to implement the provisions. Notably, all of them were expected to do so in 2010 and some exceptions were granted to the United Republic of Tanzania to extend the period to 2015 for specific categories.*

**As a result of the foregoing, is the Chairperson of the Council:-**

- (a) *Aware that most East Africans who had high expectations about the free movement of labour are now losing hope about the provision.***
- (b) *Is he also aware that the matter is causing confusion and misunderstanding since the implementation process of the protocol is extremely very slow?***
- (c) *Can he inform this August House the extent of implementation of the protocol in respect of the free movement of labour in each Partner State (include the level of implementation).***
- (d) *Can he also inform this House about the challenges being faced in the implementation of the protocol in each Partner State, if any?***
- (e) *Aware that we are behind schedule in implementing the Protocol, can he inform the House of strategies the Council will put in place to expedite its implementation so that East Africans are re-assured of the EAC integration process in respect of labour movements.***

**Madam Speaker,**

I wish to inform this august House that the EAC Secretariat and the Partner States have been implementing the provisions of the EAC Common Market Protocol and also monitoring its overall implementation. Article 10 (1) of the Protocol provides that the *Partner States hereby guarantee the free movement of workers, who are citizens of the other Partner States, within their territories.*

The Implementation of Article 10 has been slow due to a number of reasons in each Partner State, but the most challenging has been the slow process by the Partner States in the review of their employment policies and labor laws/codes in line with the requirements of the Common Market Protocol provisions.

## **Madam Speaker,**

Despite the slow progress some achievements have been recorded by the Partner States and I wish to bring to the attention of this august House the reported status as at October 2013.

## **Republic of Kenya**

There are no laws discriminating against employment of citizens of other Partner States. Section 5 of the Kenya Employment Act, No.11 of 2007, clearly outlaws discrimination against all migrants in employment. The following laws also allow free movement of East African Citizens moving to Kenya as workers without discrimination:

- The Employment Act No. 11 of 2007;
- The Labor Relations Act No. 14 of 2007;
- The Labor Institutions Act No. 12 of 2007;
- The Occupational Safety and Health Act No. 15 of 2007;
- Work Injury Benefits Act, 2007;
- The Kenya Citizenship and Immigration Act No. 12 of 2011; and
- The Kenya Citizens and Foreign Nationals Management Act No.31 of 2011

The Kenya Constitution 2010 and Industrial Courts Act No. 20 of 2011 are among the new laws that enhance free movement of East African Citizens to Kenya as workers. Kenya is a signatory to the International Labour Organization (ILO) Convention 100 which outlaws discrimination in employment and Convention 111 which advocates for equal pay for work of equal value. In addition, the 2010 Constitution has a provision that automatically makes all international conventions signed and ratified by Kenya part of Kenyan laws.

Kenya recorded a total of 2,755 and 581 work permits applied for and issued to workers from other Partner States in 2011 and as at June 2012 respectively.

The number of Private Agencies registered by relevant authority involved in collection and dissemination of information on job vacancies were 132 in 2012.

## **Republic of Rwanda**

Rwanda reported that Citizens from other Partner States who secure employment are being issued with resident/work permit of 2 years renewable upon application. Those with a lesser period are issued with a special pass in accordance with the provisions of the Protocol. All these documents are issued to the Citizens of each Partner State free of charge. A total of 37,960 workers and 120 dependants from EAC Partner States have been admitted into Rwanda labour market and issued with resident permits and

dependant passes respectively. Citizens of other Partner States are treated as national in all areas of employment and remuneration.

### **Republic of Uganda**

Uganda reported that the laws discriminating against citizens of other Partner State in relation to employment, remuneration and other conditions of work and employment were identified to be The Contract Acts, The Sale of Goods, The Employment Act, The Uganda Citizenship and Immigration Control Act, Cap.66. The Companies Act. The Workers Compensation Act, The Labour Unions Act, The Arbitration and Settlement Act 2006, The Minimum Wages Advisory Board and Wages Council Act, The National Social Security Act, The Equal Opportunities Commission Act, The Insolvency Act, The Hire Purchase Act and The Partnership Act.

The Republic of Uganda is in the process to of amending the cited laws.

A total of 455 and 549 work permit applications from other EAC nationals were received and considered in the FY 2010/2011 and 2011/2012 respectively. Dependants of workers also employed in Uganda during the financial year 2011/12 were as follows: Burundians 7; Kenyans: 76; Rwandan: 10 and Tanzanians 23.

55 private agencies have been registered and are involved in the collection and dissemination of information on job vacancies.

### **The United Republic of Tanzania**

United Republic of Tanzania has identified and is in the process of reviewing the following laws to conform to the Common Market Protocol: The Tanzania Employment Promotion Services Act of 1999; The Employment and Labour Relations Act 2004; The Labour Institutions Act of 2004; The Zanzibar Employment Act No. 11 of 2005; and The Zanzibar Labour Relations Act.

A total of 1626 work permits were issued in 2011, to citizens from other Partner States – Rwanda 137, Burundi 80, Kenya 1031, and Uganda 378. Between January – December 2012, 590 work permits were issued to citizens from other Partner States – Kenya 527, Burundi 3, Rwanda 3 and Uganda 57.

Tanzania has also embarked on data collection exercise in areas of issuance of work permits, employment and exchange programmes and has registered 100 private agencies dealing with collection and dissemination of information on job vacancies.

## **Republic of Burundi**

Burundi reported that there are no discriminatory employment laws. However the Labor Code review is underway to amend the Ministerial Ordinance No. 660/08/92 of 17<sup>th</sup> February 1992 regulating foreigners working in Burundi –to pay 3% of their annual revenue in Tax. The Social Security Act has been amended and adopted.

Burundi issued 35 Work Permits but noted that there is lack of proper monitoring system and data collection in this sector.

### **Madam Speaker,**

The Council has already put in place several measures to monitor the implementation of the EAC Common Market Protocol. Current strategies under implementation include the establishment of the National and Regional Implementation Committees of the Common Market Protocol which are chaired by the Ministries Responsible for EAC Affairs. The National Implementation Committees meet quarterly, while the regional Implementation Committee meets twice in a year. A comprehensive Monitoring and Evaluation framework for the Common Market Protocol has been designed to collect data on the status of each Protocol commitment and is under implementation by Partner States and the EAC Secretariat. The Sectoral Council of Ministers responsible for EAC Affairs and Planning meets twice a year **(June & Early November)** to review the progress of the implementation of the Common Market Protocol and to give guidance on the way forward for each commitment made by the Partner States. The Free movement of Labour is therefore being guided by the Sectoral Council directives in terms of the way forward.

### **Madam Speaker,**

Overall, Partner States implementation of the Common Market is generally lagging behind in all areas save for the free movement of goods. The main challenge lies in the slow process in the amendment/review of national laws to conform to the Protocol provisions and the lack of adequate resources by the relevant Ministries/Agencies/Departments expected to spearhead the implementation of the Protocol.

**2.0 QUESTION : EALA/PQ/OA/3/36/2013 (By Hon. Abubakar Zein Abubakar)**

***Given that the Treaty establishing the East African Community envisages the development of Kiswahili as the Lingua Franca of the Community under Article 119, could the Chairperson of the Council of Ministers give this August House an update on the progress made on the establishment of the Kiswahili Commission including;***

- (i) How many Partner States have signed the instrument that will establish the Commission***
- (ii) The dates that each Partner State signed the instrument. If a Partner State or States have not signed the instrument, what grounds for declining to sign have been given and/or what time frame is allowed for the concerned Partner State within which to give such grounds***
- (iii) What impediments exists that delays the establishment of the Commission and what measures the Council of Ministers have undertaken and/or will undertake to allow for the fast tracking of the establishment of the Commission***
- (iv) Could the Chairperson, Council of Ministers, give a firm commitment that this important Commission? Will the Council of Ministers consider a supplementary budget for purposes of expediting the set up of the Commission?***
- (v) What resources have been or will be set aside to set up the Commission and if the Council of Ministers will consider including the necessary budgetary provision, required to set up the Commission, through a supplementary budgetary bill***

**Madam Speaker,**

I wish to inform this august House that the establishment of the EAC Kiswahili Commission was approved by the Council of Ministers in 2007 and was ready to be hosted in accordance with the criteria of sitting EAC organs and institutions. However, its Operationalisation delayed due to the delay by some Partner States to ratify of the Protocol. This matter was brought to the attention of the Sectoral Council for Education Science and Technology Culture and Sports which intervened as appropriate.

**Madam Speaker,**

I pleased to inform this august House that by 30<sup>th</sup> September 2013 all the three EAC Partner States namely the Republic of Kenya, and Republic of Uganda and The United Republic of Tanzania had ratified the protocol on the establishment of the East African Kiswahili Commission and have since deposited the instruments of ratification with the EAC Secretary General as required. Honorable Members may wish to note that the

Republic of Rwanda and the Republic of Burundi were not required to ratify this protocol since in acceding to the Treaty on the Establishment of the East African Community the two new Partner States acceded to all pre-existing Protocols and other annexes to the Treaty.

**Madam Speaker,**

In regard to the dates of ratification, I wish to inform the Honorable members that the Republic of Kenya ratified the Protocol for the Establishment of the East African Kiswahili Commission on the 19<sup>th</sup> day of July 2010, The United Republic of Tanzania ratified it on the 14<sup>th</sup> Day of August 2013 while the Republic of Uganda did the same on the 12<sup>th</sup> day of September 2013.

**Madam Speaker,**

I am pleased to inform this august House that, as directed by the 11<sup>th</sup> Sectoral Council on Education Science and Technology Culture and Sports, the Secretariat has concluded negotiations of the Headquarters Agreement between the EAC and The United Republic of Tanzania for the hosting of the East African Kiswahili Commission in Zanzibar. The Agreement is ready for signing. In addition Job descriptions for the approved 20 staff positions to kick-start the Operationalization of the Kiswahili Commission were developed.

**Madam Speaker,**

In light of the above developments, it is envisaged the operationalization of the EA Kiswahili Commission will commence with effect from July 2014. To ensure that this happens as planned, the Council of Ministers at its 28<sup>th</sup> Meeting earmarked US\$ 2,009,041 to facilitate the initial costs for the operationalization of the Commission. The Council has also directed the Secretariat to ensure that the corresponding budget estimates are reflected in the EAC budget proposal for the Financial Year 2014/2015.

**Madam Speaker,**

I also wish to inform this august House that the above measures notwithstanding, the commencement of the East African Kiswahili Commission will be boosted by the passing by this august House of the Bill for the establishment of the Commission. The Council remains committed to introduce Bills for the establishment of the East African Kiswahili Commission, the East African Science and Technology Commission and the East African Health Research Commission.

The introduction of Bills as a legislative basis on the establishment of institutions is a matter that was long agreed by the Council of Ministers.