

**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**



COMMITTEE ON LEGAL, RULES AND PRIVILEGES

**REPORT OF THE CAPACITY BUILDING ACTIVITY OF THE COMMITTEE ON
LEGAL, RULES AND PRIVILEGES**

22ND TO 25TH OCTOBER 2020

**Clerk's Chambers
EALA Headquarters, 3rd Floor
EAC Headquarters
Arusha – TANZANIA**

23rd March 2021

ACRONYMS

EAC	- East African Community
EAJEC	- East Africa Judicial Education Committee
EALA	- East African Legislative Assembly
LRP	- Legal, Rules and Privileges
SCLJA	- Sectoral Council on Legal and Judicial Affairs
TFTA	- Tripartite Free Trade Area Agreement

1.0 INTRODUCTION

Article 49 (2) (e) of the Treaty for the Establishment of the East African Community empowers the East African Legislative Assembly (EALA) to establish its committees for the purposes of carrying out its functions. The Assembly, under Rule 80 of the Rules of Procedure established Six Standing Committees, one of them is the Committee on Legal, Rules and Privileges (LRP). According to Sub Rule (3) of Rule 80, Members serves the Committee for a period of two and half years.

In June, 2020, the Assembly nominated new Members of all Standing Committees. The tenure of all Standing Committees nominated in June 2020 commenced on 1st August, 2020. However, due to the delay in the passing of the EAC Budget for the 2020/2021 FY, the activities of the Assembly for the 2020/2021 FY commenced in October, 2020. At its sitting held on 19th October, 2020, the Planning Meeting of EALA decided that all Standing Committees should organize capacity building activities to equip the Hon. Members to undertake the activities of the Committee.

It is against the above introduction the Committee on LRP undertook the capacity building to its Members from 22nd to 25th October, 2020.

2.0 OBJECTIVES OF THE ACTIVITY

The main objective of this activity was to enhance the capacity of Members of the Committee on LRP to undertake their mandate. The specific objectives were:

- a. To inform Members on the mandate of the Committee;
- b. To inform Members on the development and challenges of the Legal Sector in the Community; and
- c. To undertake critical analysis of the activities of the Committee on LRP.

3.0 METHODOLOGY

The Committee held the capacity building workshop virtually through Microsoft Teams in their respective Partner States and interacted with Mr. Denis Kibirige, the Principle Legislative Draftsman of the Community and Mr. Asheri Wimile, the Committee Clerk.

4.0 PRESENTATIONS AND PLENARY DISCUSSION

4.1 DEVELOPMENT AND CHALLENGES OF THE LEGAL SECTOR IN THE EAC

Mr. Denis Kibirige, the Principal Legal Draftsman of the EAC made the presentation on the development and challenges of the legal sector in the EAC. He informed the Committee that Article 126 provides that in order to promote the achievements of the objectives of the Community as set out in Article 5 of the Treaty, the Partner States shall take steps to harmonise their legal training and certification and shall encourage the standardization of the judgment of the courts within the Community. In particular, the Partner States agreed to:

- a) Establish a common syllabus for the training of lawyers and a common standard to be attained in examinations in order to qualify and to be licensed to practice as an advocate in their superior courts;
- b) Harmonise all their national laws appertaining to the Community; and
- c) Revive the publication of the East African law Reports or publish similar law reports and such law journals as will promote the exchange and harmonization of legal learning and standardization of judgements of courts within the Community.

In discussing on the development of legal sector in the EAC, Mr. Kibirige raised the following issues:

- i. Differences in Legal Systems in the EAC;
- ii. Harmonisation of National Laws in the EAC Context;
- iii. Harmonisation of Judicial Training and Education;
- iv. Protocols and Community Instruments Pending Ratification;
- v. Laws of the Community (Acts of the Community);

- vi. Quorum of EAC Meetings; and
- vii. Lessons from the Case of Hon. Dr. Margaret Zziwa.

4.1.1 Differences in Legal Systems

EAC Partner States have different legal systems as follows:

- a) Common Law System which is practiced in the Republic of Kenya, United Republic of Tanzania, Republic of Uganda and the Republic of South Sudan (The Republic of South Sudan adopted Common Law at Independence but previously followed Sharia based Civil Law System).
- b) Civil Law in the Republic of Burundi and Republic of Rwanda.
- c) Transition – Rwanda transitioning from pure Civil law to hybrid between Civil Law and Common Law. Although the Republic of South Sudan is practicing Common Law, it is still in the transitioning from Sharia Law.

The different legal systems existing in the EAC necessitates for the common syllabus for training lawyers and common standard for examinations. This is important because of the restrictive national laws on admission of students from other systems. Kenya, Uganda and Tanzania laws include Common Law training as one of the criteria for admission to their institutions. The difference in legal system also acts as a barrier to cross border legal practice.

4.1.2 Harmonisation of National Laws in the EAC Context

The Treaty requires Partner States to harmonize their national laws in the EAC Context. The Community established a Sub Committee on Harmonisation of National Laws under the Sectoral Council on Legal and Judicial Affairs (SCLJA), to spearhead the harmonisation process. The Sub-Committee is led by the Chairperson of Law Reform Commissions of the Partner States supported by the Attorney General's Offices and Ministries responsible for EAC.

The Sub- Committee identifies the national laws that require approximation and harmonization and make proposals for their harmonization to the SCLJA. The Committee has so far identified and made recommendations for harmonization/ approximation of the following areas/laws of the Partner States:

- a) Laws relating to Companies
- b) Insolvency
- c) Partnership
- d) Business Names Registration
- e) Immigration – including entry and exit, passports and travel documents etc.
- f) Labour Laws – employment and labour standards
- g) Contract
- h) Sale of goods
- i) Intellectual Property.

One of the problems facing the Sub-Committee on Approximation and Harmonisation of Laws is lack of financial resources to facilitate its activities. For example, the Sub-Committee had earmarked the following laws for approximation and harmonization between 2019 – 2022.

- a) Investment laws – promotion and protection of cross-border investment;
- b) Financial laws and regulations (Banking, Insurance and Capital Markets);
- c) Tax laws (taxes affecting free movement of goods, services and capital);
- d) Laws on the transport sector (Road and Air transport);
- e) Laws on information and Communication technology systems;
- f) Laws on industrial development (to facilitate development of micro, small and medium industries and promote indigenous entrepreneurs e.g., in leather and textiles industries);
- g) Laws on agriculture and food security (Article 45 of the Common Market Protocol); and
- h) Laws on education sector.

The Sub - Committee has lacked funding for that period and as such the approximation and harmonization of laws is still pending as an unfunded priority of the Community.

4.1.3 Harmonisation of Judicial Training and Education

The committee on Judicial Education under the Sectoral Council of Legal and Judicial Affairs (EAJEC-SCLJA) is led by judges heading or nominated by the Judicial Training Institutes of the Partner States. In accordance to Article 126 (1) and (2) (c) EAJEC facilitates the standardization of Judgements of courts within the Community, identify the judicial training needs and makes recommendation for judicial training matters to the Community. Some of the thematic areas for training include:

- a) Training on EAC Legal Framework, Understanding existing Protocols and Laws of the Community;
- b) Training on emerging issues in EAC laws;
- c) Training on integrating EAC Trade related laws into Partner States Justice Systems;
- d) Training on the Role of Courts in Cross-border trade and customs related Dispute Settlement;
- e) Training on International and cross-border economic/financial crimes.

4.1.4 Protocols and Community Instruments pending ratification

The following are the Protocols concluded by the EAC but not yet fully ratified:

- a) Protocol on Immunities and Privileges (Not ratified by Burundi);
- b) Protocol on Cooperation in Meteorological Services (Not ratified by Burundi, Kenya, Rwanda, South Sudan);
- c) Protocol on Sanitary and Phytosanitary Measures (Not ratified by the United Republic of Tanzania);
- d) Protocol on Information, Communication and Technology (Not ratified by all Partner States);
- e) Protocol on Extended Jurisdiction of the East African Court of Justice (Not ratified by all Partner States);
- f) Protocol on Foreign Policy Coordination (Not ratified by the United Republic of Tanzania);

- g) Protocol on Environment and Natural Resources (Not ratified by the United Republic of Tanzania, Republic of Burundi and Republic of Rwanda);
- h) The EAC Double Taxation Agreement (United Republic of Tanzania requested to review the Agreement with specific comments); and
- i) The Tripartite Free Trade Area (TFTA) Agreement (not ratified by Kenya, Uganda, Rwanda and Tanzania).

4.1.5 Laws of the Community (Acts of the Community)

Laws of the Community are enacted by the passing of Bills by the EALA and assented to by the Heads of State. There are two categories of Bills in the EAC as follows:

- a) Council Bills initiated under Article 14 of the Treaty (these Bills go through a consultative process involving Partner States before they are adopted by the Council of Ministers).
- b) Private Members Bills brought under Article 59 of the Treaty. (One of the challenges for these Bills are the fact that Members seeking to introduce Bills on matters which are not areas of cooperation or which do not have a regional character).

One of the major problems facing the Community is the slow process of assent of Bills as per Article 63 of the Treaty. In order to address the problem of slow process of Assent, the Heads of State decided in 2016 to assent to Bills at the Summit meetings. However, there are many Bills passed by the Assembly, which are awaiting the assent by the Heads of State. Experience indicate that Council Bills gets assent easily than private Members' Bills.

4.1.6 Quorum of the EAC Meetings

The rule of consensus is enshrined in the Treaty and Rules of Procedure of the Community. There is a consistent issue of quorum for both policy and technical meetings yet a Calendar of Activities is approved by the Council with specific dates agreed to by all the Partner States. There is a need for the Community to consider and resolve issues relating to quorum and decision making in light of the growing

Community. Whereas the lawyers can advise on the necessary amendments that need to be made, the decision of how many Partner States should constitute quorum is not for lawyers to resolve, but the Policy Organs.

4.1.7 Lessons from the Case of Hon. Dr. Margaret Zziwa

The East African Court of Justice observed irregularities in the process of removal of Hon. Dr. Margaret Zziwa from the office of Speaker of EALA. Consequently, the Community was subjected to compensate Hon. Zziwa and to pay the cost of that case. There is a need for the Committee on LRP and the Assembly in general to abide to the established Rules of Procedure of the Assembly and to refrain from extra-legal measures to resolve legal or procedural matters. Every time we resort to measures not provided for or envisaged by the Treaty or the established rules, there will be consequences. The irregularities identified by the EACJ are summaries in the document attached as Annex to this report.

4.1.8 RECOMMENDATIONS OF THE COMMITTEE

Basing on the issues emerged during the presentation and discussion on this area, the Committee on LRP makes the following recommendations to the Assembly:

- 1. To urge the Council of Ministers to fast track the establishment of a common syllabus for training of lawyers in the EAC in order to promote the achievements of the Community in the legal sector;**
- 2. To urge the Council of Minister to finance the activities of the Sub-Committee on Harmonisation of National Laws in the EAC Context to spearhead the harmosation of national laws;**
- 3. To urge the Council of Ministers to direct the Sectoral Council on Legal and Judicial Affairs to conduct its meetings as per the approved Calendar of Activites;**
- 4. To urge the Council of Ministers to direct Partner States to ratify all the pending protocols concluded by the Partner States; and**

5. To urge the Council of Ministers to consider the issue of quorum and consensus in order to look for the best way of conducting the meetings of the Community.

4.2 POWERS AND PRIVILEGES OF THE ASSEMBLY

Mr. Denis Kibirige also made a presentation on the powers and privileges of the Assembly. He informed the Committee that privileges are the sum of the peculiar rights enjoyed by Houses collectively and by Members of the House individually, without which they could not discharge their functions and which exceed those possessed by other bodies or individuals. They refer to the rights and immunities that are deemed necessary for the Assembly, as an Organ and its Members, to fulfill their functions within the Community unimpeded. They also refer to the powers possessed by the House to protect itself, its Members and its procedures from undue interference, so that it can effectively carry out its principal functions which are to inquire, to debate and to legislate.

The privileges include freedoms, immunities and powers to enable the Assembly to discharge its mandate as a legislature in accordance with Article 49 of the Treaty.

Members derives from their becoming a Member every right and immunity applicable to that office and independence in the performance of the activities and functions of that office free from interference or intimidation. The East African Legislative Assembly (Powers and Privileges) Act, 2003 provides for the privileges of EALA (sections 3 to 12).

4.2.1 Freedom of Speech in the Assembly

According to Section 3 of the East African Legislative Assembly (Powers and Privileges) Act, there shall be freedom of speech and debate in the Assembly and its Committees and such freedom of speech shall not be questioned in any court of law or place outside the Assembly. The parliamentary privilege of freedom of speech applies to a Member's speech in the Assembly and other proceedings of the Assembly itself, but may not apply

to reports of proceedings or debates published by newspapers or others outside Parliament. Parliamentary privilege may not protect a Member publishing his or her own speech separate from the official record.

Rule 42 of the Rules of Procedure of EALA prohibits reference to be made to any matter of which judicial decision is pending in such a way as may, in the opinion of the Speaker, prejudice the interest of any party to the action.

Although Members have immunity in respect of what they say, they are still accountable to the House for improper conduct and making of grossly defamatory statements punishable by disciplinary action. There are also limits and safeguards in the use of privilege. Each Member has an important duty to refrain from activity which is prejudicial to its rights to its rights to freedom of speech, for example by being unfairly critical of the character or conduct of individuals in the course of debate, as such a person do not have an opportunity to defend themselves.

According to Rule 45 of the Rules of Procedure, a Member shall be responsible for the accuracy of any facts which he or she alleges to be true and may be required to substantiate any such facts or to withdraw his or her allegations with an appropriate apology upon the direction of the Speaker.

4.2.2 Immunity of Members of EALA

The law provide immunity to Member from any proceedings in any court in respect of anything said or any vote given by him or her in the Assembly or any of its Committees. Sections 4 and 5 of the Act provides that:

Section 4 “no civil or criminal proceedings may be instituted against any member for words spoken before or written in a report of the Assembly or a Committee, or by reason of any matter or anything brought by Petition, bill, motion or otherwise.”

Section 5 “provides that no member performing any function of the Assembly shall personally be liable to any court proceedings for any act or omission on his or her part done in good faith in the performance of those functions.”

Section 6 prohibit arrest of Members while Section 7 prohibit service of process to Members within the precincts of the Assembly or while the Assembly or Committee is sitting:

Section 6 “no member shall be liable to arrest for any civil debt except a debt the contraction of which constitutes a criminal offence.”

Section 7 “no process issued by any court in exercise of its civil jurisdiction shall be served or executed on a Member within the precincts of the Assembly or during the meetings of Committees.”

4.2.3 Powers of the Assembly

The following are some of the powers of the East African Legislative Assembly provided by the East African Legislative Assembly (Powers and Privileges) Act:

- i. To regulate its own procedure, the conduct of its business and that of its Committees (Article 49 (2) g and 60 of the Treaty)
- ii. To commit persons, whether they are a Member or not, for breach of privilege or contempt of the Assembly
- iii. To compel attendance of witnesses and production of documents (Section 16).

Section 17 confers powers of High Courts on the following:

- Enforcing attendance of witnesses.
 - Compelling the production of documents.
 - Issuing a commission to examine witnesses or persons abroad or in any place in the Partner States.
- iv. To exclude strangers from the precincts of the House and regulate the admittance of strangers.

4.2.4 Contempt of Parliament

Section 25 of the East African Legislative Assembly (Powers and Privileges) Act provides for the contempt of the Assembly. Any conduct which offends the authority or dignity of Parliament, even though no breach of any specific privilege may have been committed, is referred to as a contempt of Parliament. Contempt may be an act or an omission; it does not have to actually obstruct or impede the Assembly or a Member, it merely has to have the tendency to produce such results.

There are, however, other affronts against the dignity and authority of the Assembly, which may not fall within one of the specifically defined privileges under the Act. They include any action, which, though not a breach of a specific privilege, tends to obstruct or impede the Assembly in the performance of its functions, obstructs or impedes any Member or Officer of the Assembly in the discharge of their duties.

The rationale of the power to punish contempt, whether contempt of court or contempt of Parliament, is that the courts and parliaments should be able to protect themselves from acts, which directly or indirectly impede them in the performance of their functions. In effect, all breaches of privilege are contempt of the Assembly, but not all contempt are necessarily breaches of privilege. Like contempt of court, contempt of parliament has no limits hence where new ways of undermining or impeding the proceedings of the Assembly are found, contempt can apply.

4.2.5 Enforcement of Privileges

The Committee was informed that the Assembly is the guardian of its own privileges. Any proceedings before the Assembly or its Committee at which any person gives evidence shall be deemed to be judicial proceeding for the purposes of the Penal Codes of the Partner States and the power to summarily punish an offender vested in the courts therefore shall be vested in the Assembly or Committee as the case may be.

Neither the Speaker, nor any officer of the Assembly shall be subjected to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Speaker or such officer under the law. The Assembly is the authority to

determine whether there has been a breach of its privileges or contempt of parliament in order to commit persons, whether they are a Member or not, for breach of privilege or contempt of the Assembly.

The individual Member's rights are subordinate to those of the Assembly as a whole in order to protect the collectivity against any abuses by individual Members. This is also because the Member derives the privileges from being a Member of the Assembly. Members should avoid any arrangement, which might limit their independence as Members contrary to Rule 3 (1) of the Rules of Procedure.

4.2.6 Procedure for Handling Matters of Privilege

Any claim that privilege has been infringed or a contempt committed, is raised in the Assembly by means of a "question of privilege". The decision of the House on a question of privilege, like every other matter which the House has to decide, can be elicited only by a question put from the Chair by the Speaker and resolved either in the affirmative or in the negative, and this question is necessarily founded on a motion made by a Member.

In practice, a Member wishing to raise a question of privilege in the House must first convince the Speaker that his or her concern is *prima facie* (on the first impression or at first glance) a question of privilege. The duty of the Speaker is limited to deciding whether the matter is of such a character as to entitle the Member who has raised the question to move a motion on a question of privilege. A Motion on a question of privilege may be moved without notice as per Rule 30 (j) of the Rules of Procedure. The Speaker may suspend the House to consult and come up with a Ruling on the matter.

Once the Speaker decides that a Member raises a matter, which *prima facie* raises a question of privilege, the Motion takes priority over all the Orders of the Day and the business before the House including Council business; the House must consider the matter immediately. The House may resolve, if immediate action is not required, to refer the matter to the Committee on LRP to investigate and make recommendations to the House.

4.2.7 Recommendations of the Committee

Basing on the issues emerged during the presentation and discussion on this area, the Committee on LRP makes the following recommendations to the Assembly:

- 1. To urge all Members of the EALA to understand the powers, privileges and immunities of the Assembly and that of Members; and**
- 2. To urge all Members to promote the dignity, decorum and ethics of the Assembly by abiding to various legal instruments and practices applicable to the affairs of the Assembly.**

4.3 PARLIAMENTARY COMMITTEES

Mr. Asheri Wimile, the Senior Clerk Assistant and Clerk for the Committee on LRP made the presentation on parliamentary committees. He informed the Committee that parliamentary committees are smaller units or groups of Members set up within the parliamentary system. They allow parliament to perform several functions simultaneously and provide the opportunity for more detailed investigation and discussions before their findings are presented as committee reports to the broader group for debate and conclusions.

The roles of committees vary from jurisdiction to jurisdiction depending upon the governing system, strength and organization of political parties, available resources, and other political factors. Parliaments across the globe set up their own rules on how committees are established, their composition, their mandate, and how chairpersons are selected.

4.3.1 Establishment of Parliamentary Committees

Committees are established through legal instruments, which provides for the jurisdiction, mandate, powers, procedures, and authority of committees. Therefore, there are different legal instruments establishing parliamentary committees:

- i. Committees established by Rules of Procedure or Standing Orders. Normally powers to establish committees are conferred to the Assembly by constitutions or treaties (example Article 49 (2) (e) of the Treaty for the Establishment of the EAC).
- ii. Committees established through an Act of Parliaments. In many jurisdictions, Public Accounts Committees and Committees on Budget are established by legislations.
- iii. Committees established and defined in the Constitution of a country. Some countries are more prescriptive in their constitution and specifically define certain committees and their powers within this basic law.
- iv. Committees established by a motion of the parliament. Normally these are extraordinary committees or ad hoc committees established to address unique issue that does not fall within the jurisdiction of any permanent Committee or if greater powers are required for a committee to achieve results that are normally provided to permanent committees.

4.3.1.1 Examples of Committee established by Resolutions and by Constitutions

i. Committee established by a Resolution of the Assembly

Following revelations in early 2014 of surveillance conducted by the United States on German political leaders, the Bundestag (German Parliament) adopted a motion on 18 March 2014 to establish a committee of inquiry to investigate the allegations and their ramifications for German security. The motion provided 33 specific questions to be answered by the committee, ranging from facts to be established with regard to the allegations to recommendations for action to prevent future security breaches.

ii. Committee established by the Constitution

The Constitution of Kosovo provides a general power to the Parliament to establish committees, but specifically requires the establishment of the Committee on Rights and Interests of Communities (Article 78). The committee was established to reflect the need to have a venue for addressing ethnic tensions in the country and is provided with a unique membership –one-third of members come from the Albanian majority, one-third from the Serbian minority and one-third from other ethnic minorities. It is provided with the authority to review all draft laws and to propose draft laws for debate.

4.3.2 Types of Parliamentary Committees

The following are the types of parliamentary committees:

i. Permanent Committees

These are specialized permanent committees, they are sometimes called standing committees (Westminster Model). They are known as Select Committees in the United Kingdom and some other countries. Ad hoc committees are also known as “standing” or “special” committees in some jurisdictions.

ii. Inquiry Committees

Inquiry Committees are established by motions to focus on a key, often politically sensitive, issue that need to conduct an inquiry or to handle a matter that does not fall within the mandate of permanent committees. Their tenure ends as they accomplish the task assigned to investigate. In some cases, they are provided with enhanced powers to collect evidence to ensure that they bring the expected results. At EALA, these committees are referred to as select or ad hoc committees.

iii. Committees of the Whole House

A Committee of the Whole occurs when the entire membership of Parliament forms a committee to handle with a draft law or budget. House of Commons calls them Committee of the Whole House while the United States call them Committee of the

Whole House on the State of the Union. They are presided over by a Chairperson and not the Speaker. In smaller parliaments, such as small island states in the Caribbean and Pacific, the only committee may be the Committee of the Whole, given the limited number of Members to assign to other types of committees.

4.3.3 Committees of EALA

EALA is empowered by article 49 (2) (e) to establish its committees. According to Rule 2 of the Rules of Procedure, EALA may have the following committees:

- i. committees of the whole house (Rules 69, 76 and 77)
- ii. standing committees
- iii. any other committee of the assembly

4.3.4 Special powers of the Committees of EALA

The powers of committees of EALA are provided for by Rule 14 of the Rules of Procedure of Committees of the Assembly (annex 8 to the Rules) and by sections 16, 17 and 19 of the EALA (Powers and Privileges) Act, 2003:

- i. They may call the Council of Ministers or any person holding public office or a private individual to submit memoranda or appear before the Committee to give evidence;
- ii. May employ qualified persons to assist in the discharge of its functions;
- iii. May call or invite any person to take part in its deliberations; and
- iv. Shall have the powers of the High Court for enforcing the attendance of witness and examining them on oath or affirmation, compelling the production of documents or issuing of a commission or requests to examine witnesses abroad; and
- v. Citing any person for contempt of the Assembly.

4.3.5 Functions of the Committee of LRP

The general functions of all committees of EALA are provided under Rule 81 while Annex 5 provides for specific functions of committees of EALA. According to Annex 5. B The main functions of the Committee on LRP are broadly, to receive, review, scrutinize, investigate the complains against legal entities within EAC of denial/deprivation of enjoyment or inappropriate enjoyment, and use contrary to provisions of the Treaty, Protocols and Agreements by any persons resident within the EAC, regardless of the legal status or the presence of such persons; oversight of the work of EAC – Sectoral Committees and organs.

The above mandate relates to complains by any person against legal entities within the EAC, which denies/deprive the enjoyment or inappropriate enjoyment of rights provided by the Treaty, Protocols and Agreements of the Community. Other Functions of the Committee on LRP as per Annex 5 B are:

- i. Chapter Twenty – Four of the Treaty – Legal and Judicial Affairs;
- ii. Chapter Twenty Nine of the Treaty – General, Transitional and Final Provisions of the Treaty;
- iii. Complaints of breaches of provisions of Rule 3 (Independent Mandate, Privileges and Immunities);
- iv. Complaints of alleged breaches of the established Code of Conduct, Dress Code for Members, staff and strangers (Annexes 4 and 9);
- v. Establishment of requisite codes of conduct and dress for Members, staff and strangers while within the precincts of the Assembly;
- vi. Investigation into and recommendation of solution of breaches/noncompliance with provisions of Annex 2- Declaration of a Member's Financial Interests;
- vii. To receipt and disposal of proposals for the amendment of the Rules of Procedure;

- viii. Complaints and alleged non-compliance with provisions of the Treaty; and
- ix. Examine, discuss and make recommendations on governance matters under the Treaty.

Apart from Annex 5 B, the Committee on LRP has other functions as follows:

- i. To conduct investigation on matters raised in a Motion for the removal of the Speaker from Office (Rule 8);
- ii. To conduct investigation where a Member make a defamatory statement (Rule 51);
- iii. To conduct investigation where a Member fails to declare his or her interest in any contract with the Community (Rule 55);
- iv. To conduct investigation on the allegation that a Member was absent for seven consecutive Sittings of the House (Rule 93 (3));
- v. Upholding the Code of Conduct for the Members of the Assembly (Code 7 of the Code of Conduct for the Members of the Assembly, Annex 9);
- vi. To conduct investigation on matters relating to Member's adherence to the rules of conduct under the Code of Conduct (Code 8 of the Code of Conduct for the Members of the Assembly, Annex 9); and
- vii. To provide for matters not provided for under the Code of Conduct for the Members of the Assembly, (Code 10 of Annex 9).

4.3.6 Observations of the Committee

The Committee observed the following:

- i. The Committee on LRP is one of the most important committees of EALA especially for keeping the dignity and powers of the Assembly, its Members and Staff;
- ii. Apart from the legal sector of the Community, most of the responsibilities of the Committee on LRP relate to investigation of things complained or referred to the Committee by the House;
- iii. Some jurisdictions separate between committees dealing with House matters and committees dealing with sectors.

4.3.7 RECOMMENDATIONS OF THE COMMITTEE

The Committee recommend to the Assembly to review the structure and functions of the Committee on LRP in order to separate the House affairs functions and functions relating to sectors.

ANNEX

Some of the irregularities identified by the East African Court of Justice in the Case of Hon. Margaret Zziwa v Secretary General, East African Community, Reference No. 17 of 2014:

The above-mentioned case was filed by Hon. Margaret Zziwa against the Secretary General of the East African Community challenging her removal from the office of Speaker of EALA held on 19th December, 2014. The following are some of the irregularities found by the Court in this case:

1. The election of a Temporary Speaker to preside over the proceedings of the removal of the Rt. Hon. Speaker contravened Article 56 of the Treaty and was devoid of legal basis;
2. There is no provision for a Temporary Speaker or the election of a Temporary Speaker in the Treaty, Rules of EALA or the Administration of the East African Legislative Assembly;
3. The application of Annex 3 in electing the Temporary Speaker was against the provision of Annex 3 which was made for the purposes of Article 56 (b) of the Treaty and not for the purposes of Article 53 (3) of the Treaty;
4. The Temporary Speaker who was illegally elected could not legally refer the matter to the Committee on Legal, Rules and Privileges;
5. The Committee on Legal, Rules and Privileges, that investigated the matter, composed of 12 out of 15 Members who signed the motion for the removal of the Rt. Hon. Zziwa was not impartial, hence it violated the rules of natural justice;

6. There was no known Rules to be applied by the Committee on Legal, Rules and Privileges in the investigation the matter relating to the removal of the Rt. Hon. Speaker of EALA; and
7. There is no provision for the suspension of a Speaker of EALA.