



**EAST AFRICAN COMMUNITY  
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**REPORT OF THE COMMITTEE ON REGIONAL AFFAIRS AND  
CONFLICT RESOLUTION  
ON  
THE EAST AFRICAN COMMUNITY INTEGRITY AND ANTI-  
CORRUPTION BILL 2019.**

**Clerk's Chambers  
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Arusha, TANZANIA**

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## PART 1

### 1.0 INTRODUCTION

The East African Community Integrity and Anti-Corruption Bill, 2019 was introduced in the Assembly as a Private Members Bill and was read for the first time on 27<sup>th</sup> February 2019. In accordance with Rule 66(4) of the Rules of Procedure of the Assembly, it was referred to the Committee on Regional Affairs and Conflict Resolution for scrutiny, analysis and report therefrom.

The Committee has considered the Bill as required by Rules 66 and 67 and now wishes to report.

The Report is divided into two main Parts: -

**Part One** deals with the introduction, background to the Bill, the objectives of the Bill, the methodology adopted by the Committee, existing national, regional and international policies and legal instruments examined by the Committee and the stakeholders with whom the Committee interacted with during the processing of the Bill.

**Part Two** outlines the context and scope of the Bill, the concept, crime of corruption, the consideration of the necessity for this Bill, gaps in the existing legal framework relating to the fight against corruption, observations and recommendations.

### 2.0 BACKGROUND TO THE BILL

The Bill was originally initiated by the Regional Affairs and Conflict Resolution Committee through Hon. Zein Abubakar who, was the Chairperson of the Committee in the 3<sup>rd</sup> Assembly. Although the 3<sup>rd</sup> Assembly had granted leave to him to introduce the Bill on the behalf of the Committee, the tenure of the 3<sup>rd</sup> Assembly elapsed before the Bill could be processed by the Assembly.

The Bill was one of the Bills saved by the 4<sup>th</sup> Assembly under Rule 94, as part of the business that was pending at the lapse of the 3<sup>rd</sup> Assembly which this Assembly wished to continue with.

Consequently, the Committee resolved and mandated the Chairperson Hon. Victor Burikukiye to seek the leave of the Assembly and re-introduce it on behalf of the Committee as a Private Members Bill in accordance with Rule 64 of the Rules of Procedure of the Assembly.

### **3.0 OBJECTIVES OF THE BILL**

The objectives of the Bill are to;

- i. Promote Integrity and ethical values within the Organs and Institutions of the Community;
- ii. Strengthen the legal framework for preventing and combating corruption within the Organs and Institutions of the Community;
- iii. Provide a framework for preventing and combating corruption in the Community;
- iv. Provide for cooperation by the National anti-corruption agencies in preventing and combating corruption; and to
- v. Provide for related matters.

### **4.0 METHODOLOGY**

During the consideration of the Bill, the Committee interacted with Stakeholders, examined and reviewed the Bill in light of policy and legal instruments relating to preventing and combating corruption within the Partner States, as well as regional and international levels.

#### **4.1 Review of National, Regional and International Policies and Legal Instruments on Preventing and Combating Corruption**

In light of the significant challenges posed by corruption and its impact on governance, economic growth and social development, a wide range of instruments have emerged in East Africa to address the problem. These instruments vary in scope and are binding in nature. They range from international conventions and protocols to voluntary guidelines and standards.

In addition to its Convention on Preventing and Combatting Corruption, the African Union (AU) has promulgated other legal instruments and mechanisms

relevant to fighting corruption. The instruments are applicable to AU bodies such as the AU Commission, New Partnership for Africa's Development, the African Court of Human and Peoples' Rights among others and AU Member states that have acceded and ratified them.

Other significant Continental initiatives relating to the fight against corruption include the African Advisory Board on Corruption and African Peer Review Mechanism.

However, there has been concern that the lack of coordination and implementation of the recommended resolutions on tackling corruption may reduce the effectiveness of these anti-corruption instruments and initiatives. To mitigate this, the various Regional Economic Communities have adopted a progressive approach aimed at scaling up their efforts in dealing with the vice.

The Committee examined the Bill in light of the following national, regional and international policies and Legal instruments:

- i. The Treaty for the Establishing of East African Community;
- ii. The Rules of Procedure of the East African Legislative Assembly;
- iii. The Code of Conduct for EALA members;
- iv. The East African Community Financial Rules and Regulations;
- v. The East African Community Staff Rules and Regulations;
- vi. The African Union Convention on Preventing and Combating Corruption, 2003
- vii. The United Nations Convention Against Corruption;
- viii. The EAC Draft Protocol on Preventing and Combating Corruption;
- ix. The Preventing and Combating of Corruption Act, 2007- Tanzania
- x. The Leadership and Integrity Act, 2012 – Kenya
- xi. The Kenya Bribery Act 2016;
- xii. LAW N° 54/2018 OF 13/08/2018 On Fighting Against Corruption – Rwanda
- xiii. The Anti-Corruption Commission Act, 2009 – South Sudan

- xiv. The Leadership Code Act 2002 - Uganda
- xv. The Anti- Corruption Act, 2009 – Uganda
- xvi. The Anti-Bribery Act 2006 – Burundi
- xvii. Law No. 1/12 on the Prevention and Punishment of Corruption and related offences – Burundi;
- xviii. The Mbeki-led Report on the High-Level Panel on illicit Financial Flows; and
- xix. The Proposed EAC Protocol on Good governance.

## **4.2 Interaction with Stakeholders**

The Committee conducted public hearings in all EAC Partner States from 18<sup>th</sup> to 22<sup>nd</sup> October 2019. During the Public Hearing in the respective Partner States, the Committee benefited immensely from discussions with stakeholders, the list of which include the following;

### **4.2.1 In the Republic of **Uganda**, the Committee interacted with officials from;**

- i. Ministry of East African Community Affairs;
- i. Directorate for Ethics and Integrity;
- ii. Office of the Auditor General;
- iii. Uganda Police Force;
- iv. Office of the Inspectorate of Government;

### **4.2.2 In the Republic of **South Sudan**, the Committee interacted with officials from:**

- i. Ministry of East African Community Affairs;
- ii. Office of the South Sudan Human Rights Commission;
- iii. Office of the National Audit Chamber;
- iv. Office of the Anti-corruption Commission;
- v. Office of the National Constitutional amendment Commission;
- vi. Ministry of Justice and Constitutional Affairs and;
- vii. Office of the Law Review Commission;

**4.2.3** In the Republic of **Kenya**, the Committee interacted with officials from;

- i. Ministry of East African Community Affairs;
- ii. Office of the Ethics and Anti-corruption Commission;
- iii. Office of the Prosecutor General;
- iv. Directorate of Criminal Prosecution;
- v. Office of the Transparency International Kenya – Chapter;
- vi. Office of the Kenya Police Force;
- vii. Office of the Kenya National Audit Office;

**4.2.4** In the United Republic of **Tanzania**, the Committee interacted with officials from;

- i. Ministry of East African Community Affairs;
- ii. Office of the Tanzania National Audit Commission;
- iii. Ministry of Finance and Planning;
- iv. Office of the Prevention and combating Corruption;

**4.2.5** In the Republic of **Burundi**, the Committee interacted with officials from;

- i. Ministry of East African Community Affairs;
- ii. Ministry in charge of Justice and Public Security;
- iii. Office of the State Inspection General;
- iv. Anti-Corruption Prosecuting Authority and;
- v. Independent Commission of Human Rights.

**4.2.6** In the Republic of **Rwanda**, the Committee interacted with officials from;

- i. Ministry of East African Community Affairs;
- ii. Transparency International Rwanda;
- iii. Office of the Ombudsman;
- iv. Rwanda Governance Board

- v. Rwanda National Police
- vi. National Public Prosecution Authority
- vii. Directorate General of Immigration and Immigration
- viii. Rwanda Law Reform Commission
- ix. Office of the Auditor General

The Committee of Regional Affairs and Conflict Resolution also received written memorandum from the Lake Victoria Basin Commission as the only entity which responded to a specific request from the Committee through the Secretary General. The Committee further requested the office of Clerk to send out a follow up reminder to the Heads of EAC Organs and Institutions to share their inputs on the Bill. To ensure participation of the EAC Private sector, the Committee also directed that efforts be undertaken to ensure that the views of the business sector on the bill were taken into account. To this end the Office of the Clerk sent a formal communication to the Chief Executive Officer of East African Business Council. However, until now no response has been received from the concerned Organs and Institutions of the Community.

## **PART TWO**

### **5.0 CORRUPTION AND CORRUPT PRACTICES AND THE NEGATIVE IMPACT ON SOCIETY**

Corruption is dishonest behavior by those in positions of power or authority who accept incentives to influence decisions or outcomes for private gain. Corruption includes giving or accepting bribes or inappropriate gifts, double-dealing, under-the-table transactions, diverting funds, laundering money, and defrauding investors just to mention but a few. Exposing corruption and holding the corrupt to account can only happen if society or organizations understand the way corruption works and how systems enable it to flourish as well as dutifully implementing the laws and regulations that seek to curb it.



Corruption has several negative consequences in society, including the following:

- Corruption affects organizations or Institutions from efficiently performing their roles which results into underperformance;
- It leads to misappropriation of resources which results into suffering and loss of opportunities for the intended beneficiaries of society as a whole.
- It puts a strain on governments and government institutions thereby inhibiting their ability to deliver on social services like roads and schools among others.
- Resources are inefficiently allocated and companies that otherwise would not be qualified to win public contracts are often awarded projects as a result of bribery or kickbacks.
- Overall, the quality of social services deteriorates under a corrupt society, leading to an overall lower standard of living for the country's citizens.

### **5.1 Context and Scope of the Bill**

The Bill seeks to supplement the existing Community policies and instruments such as the Treaty and EAC staff Rules and Regulations to enable and facilitate the reporting, investigation and prosecution of identified corruption and corrupt practices within the Organs and Institutions of the Community. Presently, the only framework that exists to prevent and combat corruption within the Organs and Institutions are the code of conduct for EALA members, the code of conduct for EACJ Judges, EAC staff rules and regulations and the EAC Anti-Corruption policy of 2006, all of which, do not comprehensively curtail the vice of corruption and corrupt practices. They do not provide for deterrent sanctions to prevent persons who are in the service of the Community from engaging in corruption and corrupt practices.

## 5.2 OBSERVATIONS AND RECOMMENDATIONS

### 5.2.1 Basis for the Bill

The Bill is anchored on the provisions of the Treaty for the Establishment of the East African Community, various Community laws listed below, and other internal operational policies and instruments. They include the following –

1. The fundamental Principles of the Community articulated in **Article 6** of the Treaty and particularly paragraph **(d)** which includes; ***good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of Human and Peoples’ rights.***
2. The Operational Principles of the Community defined in **Article 7** particularly in **clause 2** which provides that ***The Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and maintenance of universally accepted standards of human rights;***
3. The Bill builds on the confidence and consensus made by the long process of developing the draft Protocol on combating and preventing corruption within EAC;
4. The Bill is embedded in a value-based tradition intended to enhance integrity and establish pertinent values for persons employed in the service of the East African Community.
5. The Bill is also informed by the provisions of the African Union Convention on Preventing and Combating Corruption as well as the United Nations Convention Against Corruption.

### 5.2.2 Necessity and urgency of the Bill

The Committee invites the House to note that the East African Community has continued to grow in terms of widening and deepening cooperation among the

Partner States. Currently some of the Organs of the Community include, the Secretariat, the East African Court of Justice and the East African Legislative Assembly. The Institutions include, the East African Development Bank, the Inter University Council for East Africa, Lake Victoria Fisheries Organization, Lake Victoria Basin Commission and the East African Kiswahili Commission, East African Health Research Commission, East African Science and Technology Commission, the Civil Aviation Safety and Security Oversight and the East African Community Competition Authority

For better management and coordination, all these Organs and Institutions of the Community are supposed to be guided by a regional framework on good governance and anti-corruption which is currently lacking.

It was therefore envisaged that there is necessity at the EAC level, to consolidate the national and the EAC gains made by the Partner States towards fighting and combating corruption. The envisaged legislation would be in tandem with internationally acclaimed principles of transparency and accountability.

The audit reports of the Audit Commission have continuously reported the gross misuse of the Community's resources specifically with regard to gross violations of procurement processes in the EAC Organs and Institutions which have contravened the EAC procurement Rules and Regulations.

Corruption and corrupt practices undermine the effective and efficient utilization of resources available to the Organs and Institutions. It further derails the Community from fulfilling its mandate thus undermining the deepening and widening of the EAC integration agenda.

It is urgently necessary to promote integrity and ethical values in the integration process as well as deter and prevent corruption and the corrupt practices in the Community. The Bill, seeks to promote values and ethical practices in the Organs and Institutions of the Community, while developing an acceptable

framework for imparting those values and establish acceptable ethical standards in the integration process. Ultimately, it seeks to outlaw corruption, bribery and other corrupt practices in the Community.

***The Committee therefore observes that:***

- a) The Bill was introduced to address the existing gaps because of the absence of an enabling law to hold and bring to book all persons employed in the service of the Community that might be involved in corrupt practices.***
- b) Once the Bill is enacted into law, it will go a long way in deterring corruption and corrupt practices and punishing those involved in the corrupt practices.***

### **5.2.3 Weak legislative framework to fight corruption within the EAC Organs and Institutions**

The Committee noted with concern that the only existing framework to deal with staff related matters involved in corruption or corruption related cases is hinged on regulations 85, 87, 88, 89,90,91, 92, and 93 of the EAC staff Rules and Regulations. The Staff Rules and Regulations categorizes the ground for disciplinary action. The grounds range from minor offences, serious offences and grave offences. The disciplinary measures range from verbal warnings, written warnings, reprimand, deferment of annual increment, suspension from duty, termination and dismissal.

The Staff Rules and Regulations merely consider acts of corruption and corrupt practices as disciplinary matters and not criminal practices. Corruption and acts of corruption are considered undesirable crimes all over the world, yet the Community merely treats them as acts of indiscipline within its Organs and Institutions.

On the side of the Members of East African Legislative Assembly and the Judges of the East African Court of justice, the instruments governing them are vested

in their respective codes of conduct. These are however, not adequate and do not serve as deterrent for offences once committed.

Therefore, the Bill has spelt out the acts of corruption and corrupt practices. It has gone ahead to introduce the list of offences on which culpability will be based, to ensure that the staff and other persons employed in the service of EAC who are involved in corruption will be prosecuted. These are very detailed proposals that if enacted, will radically change and make it difficult for all persons employed in the service of the Community to involve themselves in corrupt practices. It will further enable the EAC management to initiate investigations and institute criminal proceedings any against employee who is cited in corruption or tendency.

The Bill has also put in place stringent and deterrent measures to punish those involved in corrupt practices. These measures can never be provided for in a Protocol, codes of conduct and Staff Rules and Regulations.

Furthermore, the Bill is proposing to put in place mechanism to support and facilitate cooperation among the National Anti-corruption Agencies to investigate and ensure that reported cases of corrupt practices by the EAC employees or their accomplices are tried by the respective Partner States. This collaboration will also ensure that there are no safe havens for the corrupt in the East Africa region.

The Committee further observes that the Bill is intended to strengthen the existing instruments that regulate conduct and promote the good governance framework in the EAC. It will thus ensure that the respective codes of conduct across all the Organs and Institutions are standardized and harmonized.

#### **5.2.4 Establishing a value-based framework to promote integrity in the Community**

The Committee observes that integrity and values are intertwined and are key components of any society, organization or institution. Once values are

inculcated in mindsets of the employees, they will adhere to the set guidelines which will in turn lead them to attain high levels of productivity and honesty.

This Bill therefore, attempts to establish a public service and value-based framework that can be used in addressing and promoting values and integrity in all the EAC Organs and Institutions and at all levels of service. By undertaking this, it will ensure and ascertain that while handling and utilizing the resources that are allocated to the Community, all persons working in the service of the Community will at all times be guided and cognizant of the fact that the resources are utilized with a value-based mindset irrespective of the position they hold. This will in turn ensure that the resources are used in the most effective and efficient manner for their intended purposes and thus increasing the standards of values and integrity.

#### **5.2.5 The Draft East African Community Protocol on Preventing and Combating Corruption**

The EAC is currently developing a protocol on preventing and combatting corruption.

The Objectives of the Protocol are to: -

- Promote and Strengthen the development of mechanisms needed to prevent and combat corruption;
- Promote cooperation among the Partner States to ensure the efficiency and effectiveness of measures for preventing and combating corruption; and
- Promote harmonization of laws, policies and strategies relating to preventing and combating corruption.

During the Committee interactions with the EAC Stakeholders, the Committee was informed that the draft Protocol was initially adopted by the Council of Ministers at its 24<sup>th</sup> Extra-ordinary Meeting and referred to the Sectoral Council on Legal and Judicial Affairs for legal input. Whereas the 18<sup>th</sup> and 21<sup>st</sup> Meetings of the Sectoral Council on Legal and Judicial Affairs were able to resolve the divergent views of the Partner States on the Draft Protocol, the, Sectoral Council

found that the draft did not clearly specify the areas of cooperation as required by Article 151 of the Treaty. Accordingly, the Council referred the draft Protocol to the Heads of Anti-Corruption Agencies to agree on the specific areas of cooperation that they wished to incorporate in the Protocol.

During the Committee consideration of the Bill and in light of the draft protocol, the Members raised the following concerns;

- Whether the Bill is necessary and a priority since the EAC is developing a protocol on anti-corruption;
- Whether certain aspects in the Bill would not contradict the protocol; and
- Whether it wouldn't be procedurally necessary and right that the bill should await the formulation and the enactment of the protocol such that certain aspects in the bill can be delivered and anchored in the protocol. It would also remove possibilities of ensuring that in case there are any contradictions in the Bill, they are harmonized before the bill is passed.

After extensive consultations, the Committee noted as follows:

- (a) The **Protocol** is being formulated to establish a framework for cooperation with all the Anti-corruption Agencies and Institutions in the EAC region. This framework of cooperation will undertake and relate to matters such as liaison, reporting on corrupt elements, sensitization on corruption and corruption practices, and harmonization of anti-corruption laws among others.
- (b) The **Bill** on the other hand is being developed to strengthen and bridge the gaps currently existing in the EAC legal framework on issues of corruption including criminalizing corruption and providing appropriate sanctions.
- (c) The current **EAC statutory framework** as currently spelt out in the EAC Financial Rules and Regulations and the various codes of conduct do not have prosecutorial powers to punish staff as well as persons in the service of the EAC who are involved in corruption and corrupt practices. Hence, the necessity of the Bill.

### **5.2.6 Active sensitization and awareness campaigns**

The Committee further recognizes that for any fight against corruption to be successful it is imperative that a robust awareness and sensitization program is developed to create awareness on the dangers of corruption. An empowered and enlightened citizenry can be a very useful ally in the fight against corruption at all levels of EAC.

***The Committee recommends to the Assembly;***

***To urge the Council of Ministers to ensure that programs and activities are designed by the EAC secretariat specifically targeting the EAC citizens. This can be done through both the mass print and electronic media.***

### **5.2.7 Due diligence before Appointment of Officers**

The Committee observed that one of the most effective ways of assessing the suitability of the staff before appointment is to undertake a due diligence. This involves tracing the staff respective work history in the organizations they have worked and the schools and institutions they have studied to ascertain the validity of the academic qualifications and documents submitted to the Community. The Committee noted that whereas the Council directed the Secretary General to undertake a vetting exercise before any staff is employed in the service of the Community, this vetting exercise is not anchored in the EAC staff rules and regulation or any other statutory instrument at the EAC. The Committee observes that the absence of legal statutory mechanisms at EAC to ascertain the suitability of candidates joining the service of the Community puts the EAC at the risk of employing staff not suitable for the job or those with criminal records or unsatisfactory academic or professional qualifications and experience. The due diligence would also involve obtaining a certificate of good conduct from their respective Competent Authority/Police in the respective Partner States they originate from. By doing so, it would limit the Community from employing persons with a criminal history whose suitability to serve in the Community might be questionable.



The Bill will therefore, address the existing gaps and establish an affirmative tool for dealing with due diligence for persons intending to join the Community. This will establish a legal framework to deal with issues of vetting and screening the prospective employee's prior to joining the service of the Community.

***The Committee recommends to the Assembly to urge the Council of Ministers to ensure that for***

- a) EAC develops a mechanism of ensuring that it conducts due diligence during the recruitment process to ensure that the prospective candidates are thoroughly vetted and screened before they are put into the service of the Community.***
- b) For criminal record: EAC should develop a mechanism that ensures that every prospective employee, obtains a certificate from the respective competent authority/ national police of the Partner State as evidence that the candidate does not have a criminal record. These should be presented before candidates formally take up the employment.***

#### **5.2.8 Reporting, investigating and prosecuting corruption and corrupt practices**

Reporting and investigating acts of corruption and corrupt practices is one of the most critical aspects in the Bill. For the fight against corruption to be successful, it is important that there are clearly established channels and mechanisms through which cases of corruption are reported such that they are clearly investigated, processed and addressed. The Bill has provided for the Heads of Organs and Institutions to develop mechanisms of reporting corruption.

The Committee observed that placing the responsibility of reporting corruption or cases of corruption on the Heads of Institutions would stigmatize those who could have genuine cases to report for fear of reprisals from those Heads of Institutions. The Committee further put into consideration the fact that EALA is currently developing a Whistle Blowers Bill which will provide for making

reporting cases of corruption anonymous. The Committee observed that placing the reporting cases to the Office of the Secretary General will broaden and widen the reporting to include the National Agency of the Partner States where the alleged corruption will have been committed.

The Committee recognizes that the EAC Organs and Institutions are located across the EAC Partner States. In order to make the fight against corruption effective, it is important that there is active involvement of the citizenry of the EAC region. The Committee noted that in order to ensure that the residents of East Africa are empowered to act on corruption and corrupt practices, opportunity should be extended to them to report cases of corruption whenever they are cited or detected. This would be in addition to notwithstanding the responsibility of the Secretary General and the Heads of Organs and Institutions.

Once an allegation of corruption is reported, there is need for the allegation to be thoroughly and efficiently investigated. The various EAC codes of conduct and the Staff Rules and Regulations do not provide mechanisms for effective investigation of corruption cases. The Committee observed that the Bill empowers the National Anti-corruption Agencies in each Partner State to investigate any allegations of corruption reported to them by the Secretary General or which comes to their attention even if it has not been reported by the Secretary General. Significantly, the Bill proposes stringent penalties to prevent and deter persons from interfering or obstructing investigations.

The Community has already recognized that the East African Court of Justice does not have criminal jurisdiction and has already enacted in section 72 of the Laws of the Community Interpretation Act, 2004 that, all offences and criminal matters arising from community laws shall be triable in the Partner State in which the crime is alleged to have been committed.

It therefore follows that prosecution of corruption cases shall largely involve the prosecutorial authorities of the Partner States using both the regional laws and mechanisms available to them and the respective laws and systems of each Partner State. In effect, any law passed by the Assembly complements the already existing laws of the Partner States.

***The Committee therefore recommends that any employee or person should be able to report/file suspicious cases of corruption and address them to the Office of the Secretary General.***

***Furthermore, the Committee recommends that the Secretary General should develop and table before the Assembly an annual report on the corruption status in the Community.***

#### **5.2.9 Recovery and confiscation of corruption proceedings**

The Committee observed that the process of tracing, freezing, confiscating and returning the stolen assets and funds to Community can be a complex and lengthy one. This will entail and involve multiple jurisdictions which in most cases encounter complicated technical, legal and political barriers.

That notwithstanding, recognizing the serious problem of corruption and the need for improved mechanisms to combat its devastating impact and facilitate the recovery of corruption proceeds, it is of paramount importance that the fight against corruption is addressed in the mindsets of the EAC employees and even felt in the corridors of the Community.

Leaving the beneficiaries of corruption to simply walk away with the corruption proceeds will not only undermine the integration agenda, but will also weaken and dampen the very ideals for which the Community was established.

***The Committee recommends to the Assembly to urge the Council of Ministers and the Summit as the case may be, to put in place a robust mechanism and framework for the return of ill-gotten funds and assets of***

***the Community. This would require and involve Partner States to take measures to restrain, seize, confiscate, and return the proceeds of corruption be as confirmed through the decisions of EAC.***

#### **5.2.10 Cooperation among Anti-Corruption Agencies**

The Committee observes that fighting corruption and related corruption tendencies can be complex and resource consuming. Corruption cases can be sophisticated and complicated with multiple actors, hence, difficult for multi-jurisdictional reach.

In this context, combating corruption and the recovery of the proceeds of corruption cannot be undertaken by a single Agency acting in isolation, no matter how competent this Agency or its staff may be.

Once enacted into law, it will ensure and outline a cooperation mechanism and a *modus operandi* in cooperating with other Anti-Corruption Agencies. This is crucial for ensuring that Anti-Corruption Agencies are able to synergize and propagate an ethical value based EAC.

***The Committee recommends that in order to enhance cooperation with key anti-corruption agencies, it is imperative that the Community develops a strong and efficient investigations and prosecution framework that will ensure that concerted efforts from key National Stakeholders and Anti-Corruption Agencies across the partner states are harnessed. This cooperation will ensure that Government entities holding information that will prove useful to the Anti-Corruption Agencies are given greater attention. The Committee further recommends that other Agencies such as law enforcement, and registration of service and company authorities should be put on board in this framework of cooperation.***

#### **5.2.11 Immunities and privileges**

Article 73 of the Treaty Establishing the East African Community provides that for persons employed in the service of the community, they -

- a) Shall be immune from civil process with respect to omissions or acts performed by them in their official capacity; and
- b) Shall be accorded immunities from immigrations restrictions and alien registration.

The immunities notwithstanding, the Committee observed that employees in the service of the community can indulge in acts of corruption during their service of the community. Both article 73 and 138 of the Treaty do not protect employees and persons in the service of the Community from criminal proceedings arising from engaging in criminal activity. Indeed, there are provisions for waiving immunity of staff and other persons in order for them to be prosecuted for engaging in criminal activity in the Host Countries.

***To cure this anomaly, the Committee recommends;***

- a) That an elaborate framework to ascertain culpability of the affected employees should be established before the immunities are waived such that the employees involved can force trial; and***
- b) For employees to be prosecuted, there is need for the Secretary General to waive the immunities where the employees are being prosecuted for criminal activities.***

## **6.0 CONCLUSION AND RECOMMENDATION**

The Bill has been enriched and has borrowed practical solutions, provisions and best practices from various jurisdictions in the quest of developing a sound, progressive and comprehensive law for the Community on integrity and anti-corruption including, the laws and policies from the Partner States.

***The Committee therefore recommends to the Assembly that the Bill be passed into law subject to the amendments proposed by the Committee.***