



EALA/005/2007

EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY

A RESOLUTION OF THE ASSEMBLY TO URGE THE EAC COUNCIL OF MINISTERS TO UPGRADE THE POSITIONS OF THE COUNSEL TO THE COMMUNITY, THE CLERK OF THE ASSEMBLY AND THE REGISTRAR OF THE EAST AFRICAN COURT OF JUSTICE TO EXECUTIVE LEVEL POSITIONS IN THE STRUCTURE OF THE EAC.

By Hon. Lydia Wanyoto – Mutende, Chairperson, Standing Committee on General Purposes and adopted by the Assembly on Thursday 21st February 2008.

Preamble:

WHEREAS Article 9 of the Treaty establishes the Organs and institutions of the Community, of which the Organs are superior and are decision making bodies;

AND WHEREAS the positions of Counsel to the Community, Registrar of the Court and the Clerk of the Assembly are specifically articulated in Articles 69, 45 and 48 of the Treaty respectively;

AND WHEREAS Article 23 establishes the role of the Court of being the judicial body of the Community while Article 49 bestows on the Assembly all legislative powers;

AND WHEREAS the Executive Officers of these two Organs of the Community namely, the Registrar and the Clerk, are graded as Professional Officers thereby misrepresenting the mandate and dignity of these Organs;

NOTING THAT the heads of some of the EAC Institutions and departments within the Secretariat are graded at executive levels;

FURTHER RECALLING the Secretary General's decision to give the Clerk and the Registrar semi-autonomous powers in all matters of Finance and Administration of the two Organs, these being additional responsibilities and therefore compelling need for the EAC to urgently harmonize the ranking of its heads of Organs and Institutions;

FURTHER RECALLING the House Business Committee recommendation to upgrade the Office of the Clerk to Executive Level and of giving the Assembly Departments which were down graded, their due position within the structure of EAC staff establishment;

FURTHER NOTING that the Counsel to the Community is a position created by the Treaty in Article 69 and with the incumbent being the Principal Legal Advisor to the Community, all its Organs and institutions as articulated by this provision and also by Articles 37 and 71(4) of the Treaty;

GLARINGLY AWARE that the Counsel to the Community is an Ex- officio Member of this Assembly and therefore entitled to certain Privileges and Immunities as a Member of the August House, which are not being accorded to the office by the current establishment of the structure which grades the Counsel to the Community at Professional level;

FURTHER NOTING that because of the wrong staffing structure the Office of the Counsel to the Community has remained understaffed for along time;

NOTING WITH APPRECIATION the decisions of the Sectoral Council on Legal and Judicial Affairs of 4th August 2006 (Ref: EAC/SR/2006) and of 16th March 2007 (EAC/SCLJ/01/2007) which stressed the urgent need to strengthen the office of the Counsel to the Community and to upgrade it to executive level noting that it is a unique office whose services are in demand by all sectors, Institutions and Organs of the Community and yet continues to be equated to Professional Level;

NOW THIS ASSEMBLY;

CONSCIOUS of an expanded mandate of the Clerk, the Registrar and the Counsel to Community bestowed upon them by the Treaty and Community Laws;

AWARE that the mandate will further be expanded following the admission of Rwanda and Burundi and therefore calling for extra demands;

CONCERNED that the Clerk and Registrar who are Executive Officers of two of the major Organs of the Community are graded below heads of Institutions of the EAC in the structure;

FURTHER CONCERNED of the anomalies in the existing structure of the Assembly viz that of the Secretariat and other Organs and Institutions of the EAC;

DO NOW RESOLVE AS FOLLOWS:

1. **THAT** the Council be urged to consider the matter of elevating the stature of the office of the Clerk, the Registrar and the Counsel to Community to Executive Level – D1 within the Community's structure to better manage the expanded mandate.
2. **THAT** the Council do take note of the anomaly which was occasioned in the process of restructuring the Assembly positions which down-graded its departments, and do consider repositioning them in tandem with those of the Secretariat.
3. **THAT** this resolution be transmitted to the Chairperson of the Council of Ministers and the Secretary General do place the same on the agenda of the next meeting of the Council of Ministers.

Certified by:

Justin Bundi

Justin Bundi
CLERK

Date: 22/2/2008