

**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**REPORT OF THE COMMITTEE ON REGIONAL AFFAIRS AND
CONFLICT RESOLUTION**

ON

**THE PROGRESS MADE BY THE COMMUNITY TOWARDS
ACHIEVING THE EAST AFRICAN COMMUNITY CONFEDERATION
CONSTITUTION AND THE EAC ELECTIONS OBSERVER
MISSIONS.**

(29TH NOVEMBER- 3RD DECEMBER, 2020)



PAPERS LAID	
DATE	10/05/2021
TABLED BY	Dep. M.L.
COMMITTEE	_____
CLERK AT THE TABLE	<i>Deecef</i>

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

NOVEMBER 2020

Contents

1.0 INTRODUCTION	4
2.0 OBJECTIVES OF THE ACTIVITY	4
3.0 METHODOLOGY	4
4.0 POLITICAL FEDERATION AND CONFEDERATION	4
4.1 A Brief History of the Concept of Political Federation	4
4.2 Key tenets that are crucial for the Political confederation to work	6
4.3 Progress towards a Political Federation and Drafting the Constitution for EAC Political Confederation	6
4.4 Progress towards Drafting the Constitution	7
4.5 Issues identified for public consultations	7
5.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS	8
5.1 PROTOCOL ON GOOD GOVERNANCE	8
5.2 PROGRESS MADE TOWARDS THE REALIZATION OF THE FOUR EAC PILLARS	9
5.3 PUBLIC AWARENESS, POLITICAL WILL, SOVEREIGNTY AND CONSENSUS ABOUT THE INTEGRATION PROCESS	10
5.4 DELAY IN THE IMPLEMENTATION OF THE ROADMAP OF THE CONSTITUTIONAL MAKING PROCESS AND THE VARIOUS CHALLENGES ENCOUNTERED	10
5.5 LACK OF A FULLY-FLEDGED SECRETARIAT TO FACILITATE THE CONSTITUTIONAL EXPERTS	11
5.6 LINK BETWEEN THE FEARS AND CONCERNS RAISED BY EAST AFRICANS TOWARDS FAST TRACKING POLITICAL FEDERATION AND STEPS TO ADDRESS THEM	12
5.7 THE LEVEL AND NATURE OF CONSULTATIONS, STAKEHOLDERS CONSULTED AND EXPECTATIONS OF EAST AFRICANS ON THE 3 PILLARS OF INTEGRATION	13
5.8 INVOLVEMENT OF EALA AS REPRESENTATIVES OF THE PEOPLE OF EAST AFRICA	13
5.9 NECESSITY TO REVISE THE ROAD MAP AND METHODOLOGY IN VIEW OF THE COVID 19 RELATED CHALLENGES	14
5.10 CONCERNS OF THE DELAYED TIMELINES AND THEIR IMPLICATIONS TO THE AFRICAN UNION AGENDA 2063	14

5.11 LESSONS LEARNT AND BEST PRACTICES ON POLITICAL CONFEDERATION REGIONALLY AND GLOBALLY.....	15
6.0 ELECTIONS OBSERVATIONS	15
6.1 OBJECTIVES OF THE EAC ELECTION OBSERVATION MISSIONS.....	16
6.2 MANDATE AND FRAMEWORK FOR EAC OBSERVATION MISSION.....	16
6.3 PAST PROGRESS IN ELECTIONS OBSERVATION	17
7.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS.....	18
8.0 CONCLUSION.....	22
9.0 RECOMMENDATION.....	23

1.0 INTRODUCTION

In executing its oversight function, the Committee on Regional Affairs and Conflict Resolution held a virtual activity and interacted with the Department of Political Affairs of the EAC on the progress so far made in the constitutional making process as well as the EAC Political Federation.

The activity also focused on the analyzing the conduct of the EAC Elections Observer Missions and made appropriate recommendations to improve the process. The oversight activity took place from 29th November- 3rd December, 2020.

2.0 OBJECTIVES OF THE ACTIVITY

The objectives of the activity were to;

- i. Assess the progress made in the attainment of the Political Federation as the fourth pillar of the integration process;
- ii. Assess the progress made in drafting the Constitution to anchor the EAC the political federation;
- iii. Identify the gaps and challenges faced in drafting the constitution for the political federation;
- iv. Analyze the processes and gaps of the EAC Elections Observer Missions; and
- v. Make appropriate recommendations towards the EAC Election Observer Missions and progress towards attainment of the political federation.

3.0 METHODOLOGY

In undertaking the activity, the Committee employed the following methodology;

- i. Held meetings and interacted with the Principal Political Affairs Officer;
- ii. Reviewed the relevant literature on the subject matter; and
- iii. Held virtual Committee meetings to prepare the report.

4.0 POLITICAL FEDERATION AND CONFEDERATION

4.1 A Brief History of the Concept of Political Federation

This is not the first time an East African Union has been proposed. As the nations of the region gradually became independent following the end of European colonialism in the 1960s, talk of federation was rife. The envisaged federation however, fell apart amid disagreements between leaders as to how this federation

would look. East African Community (EAC) was established in 1967, building upon common institutions left over from the British colonial administration; yet this too collapsed in 1977 amid internal disputes. There were many reasons for the collapse, but they largely stemmed from political differences between the erstwhile leaders and perceptions around unfair distribution of the benefits and costs of regional integration.

The EAC was subsequently revived in 1999 and discussions about deepening integration evolved to the point where the Partner States were once again envisaging the establishment of a political union through an East African Federation.

It is on the above premise that the Article 5 (2) of the Treaty Establishing the East African Community commits the Partner States to undertake to establish among themselves and in accordance with the provisions of the Treaty a Customs Union, Common Market, Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, commercial, infrastructure, cultural, social, political and other relations of the Partner states to the end that there will be accelerated, harmonious, and balanced development and sustained expansion of economic activities. The benefits of which would be equitably shared.

In a bid to actualize and implement the Treaty provision, the Summit of EAC Heads of State, at their 18th Ordinary Summit Meeting in 2017, adopted Political Confederation as a transitional model of the East African Political Federation and directed the Council of Ministers to constitute a team of Constitutional Experts to draft the constitution for the Political Confederation.

The Council in its report to the 19th Summit of Heads of State in February 2018, reported on the progress of attaining Political Federation and presented the Concept Note, Road Map and Terms of Reference for Constitutional Experts. The Summit directed the Council to prioritize the Constitution drafting process and provide the required funding.

The Summit, at its 20th Ordinary Meeting held on 1st February, 2019 in Arusha, Tanzania "...directed the Council to cause the Experts to provide a preliminary report on the proposed confederation model within seven months". The Summit also "...decided that H.E President Yoweri Kaguta Museveni would provide political guidance to the Constitutional Experts". While the Constitutional Experts were expected to submit a preliminary report on the proposed

confederation model, a number of challenges were encountered that slowed down completion of the planned activities that would have informed the proposal.

4.2 Key tenets that are crucial for the Political confederation to work

- i. The entities participating in the Confederation (Partner States) retain their sovereignty;
- ii. The Confederal Government does not directly relate to the citizens of the participating entities; it only acts on their behalf through the political institutions of the constituent states;
- iii. The Constituent States are guaranteed the freedom to join and withdraw from the confederation;
- iv. The Confederation has the right to suspend and/or expel a constituent state that violates specified aspects of the Federal Constitution;
- v. The operations of the Confederal Government depend greatly on the good will of the constituent state governments;
- vi. The decision-making at the confederal level is based on consensus and or unanimity.

4.3 Progress towards a Political Federation and Drafting the Constitution for EAC Political Confederation

The EAC Treaty provides for Political federation in Article 123 and Article 123(6) stipulates that “The Summit shall initiate the process towards the establishment of a Political Federation of the Partner States by directing the Council to undertake the process.” Article 123(7) provides that, the Summit may order a study to be first be undertaken by the Council”.

Pursuant to Article 123 (6) of the Treaty, the Summit initiated the process towards the establishment of the EAC Political Federation by directing the Council of Ministers to undertake the process, in 2004. The Summit of EAC Heads of State established a Committee (The Wako Committee) to Fast-track the East African Political Federation to examine ways and means of expediting the process of integration. This was followed by the national consultative process which aimed at raising the level of awareness among the different stakeholders on key issues of the East African Political Federation. In 2009 the Summit instituted a Team of Experts to make recommendations on how to address fears, concerns and challenges that had been raised by the different stakeholders towards fast tracking the Political Federation.

4.4 Progress towards Drafting the Constitution

Since their appointment, the Constitutional Experts have carried the following activities:

- i. Meeting with the President of the Republic of Uganda, H.E President Yoweri Museveni for political guidance. The meeting took place on 23rd April 2019;
- ii. Held consultative meetings between April and November 2019;
- iii. Conducted studies and analysis of the EAC Treaty, Protocols, laws and reports;
- iv. Undertook a situational analysis of the EAC integration, with particular emphasis on the previous reports relating to fast-tracking the EAC Political Federation, namely; Munanka Report, Wako Report, and the report on addressing East Africans' Fears, Challenges and Concerns.
- v. Identified the stakeholders to be consulted, the issues for consultation, prepared an information package for public awareness and a programme for the public consultations. The consultation process was officially launched by H.E President Yoweri Kaguta Museveni in Entebbe on 18th November 2019.

4.5 Issues identified for public consultations

- (i) Membership to the EAC Political Confederation.
 - (ii) Areas of cooperation under the Political Confederation.
 - (iii) Governing structure of the Political Confederation.
 - (iv) Modes of decision-making by the Confederal Authority
 - (v) The governance principles of the Confederation.
 - (vi) The relationship between the Partner States and the Confederal Authority.
 - (vii) The funding mechanisms for the operations of the Confederal Authority.
 - (viii) Mode of adoption of the Constitution establishing the Political Confederation.
 - (ix) Any other issues proposed by stakeholders to be addressed in the Constitution of the EAC Political Confederation.
- VI. Identified locations for Stakeholders consultations taking into consideration inclusivity, geographical coverage, location of governments,

- business centers, accessibility, time and resource constraints. A selection of location has been done for public consultations in each Partner State.
- vii. Information package for public awareness. The Constitutional Experts developed an information paper to be disseminated to the public by the EAC Secretariat and the Ministries in Charge of the EAC Affairs.
 - vii. Public consultations. The experts have developed a tentative programme for public consultation.

5.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

5.1 PROTOCOL ON GOOD GOVERNANCE

The Committee notes that the principle of good governance is one of the fundamental and operational principles of the Community. This principle is provided for under article 6 and 7 of the Treaty. The Committee was informed that the EAC Good Governance Protocol was initiated as a framework of promoting good governance, rule of law and human rights within the Community. The Protocol underpins the objectives of the Community that includes adherence to principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as recognition, promotion and protection of human and Peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' rights. It is worth noting that Partner States supported the good governance framework and directed that it should be upgraded to a good governance protocol. However, in 2012, some Partner States raised several issues on the draft protocol in relation to economic and corporate governance and whether good governance is an area of cooperation that warrants conclusion of a protocol. The process of finalizing the protocol has stalled with no clear timeframe for its completion.

Committee observation

- Divergent opinions on governance and democratic practices generated concerns on how the federation will bridge the gap in governance and democratic deficits, rule of law, transparency, accountability, human rights and access to justice, constitutionalism, and prevention of conflicts, equitable distribution of resources, political reform and social justice between the Partner States.
- Observance and adherence to universally acceptable principles of good governance are a pre-condition for any Country to become a Member of, be

associated with, or participate in any activities of the Community under article 3 (b) of the Treaty.

- There is need to take into account Partner States Constitutions while considering the good governance principle and the need for clarity on areas of cooperation under the Treaty;

Committee recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to expedite the finalization and adoption of the EAC protocol on good governance to enhance harmonization of the democratic governance policies, practices, laws and standards. Furthermore, there is need to finalize other instruments that operationalize its pillars.

5.2 PROGRESS MADE TOWARDS THE REALIZATION OF THE FOUR EAC PILLARS

Committee Observation

The Committee observed that the EAC Treaty envisages four (4) pillars of the EAC integration process. These include the Customs Union, the Common Market, the Monetary Union, and the Political Federation. Suffice to note that considerable progress has been registered in the first three (3) pillars. However, the 4th pillar appears to be diverting from the ultimate phase of Political Federation to Political Confederation. Even with this diversion, the process has been slow and riddled with enormous challenges and if not properly addressed will delay the achievement of this milestone.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to fast-track public consultations on political confederation and ensure diverse participation of key stakeholders including strong engagements with the National Parliaments, Civil Society Organizations, Local Governments, Private Sector, Non-Governmental Organizations, Media and other Critical Stakeholders for the process to be generally acceptable and inclusive.

5.3 PUBLIC AWARENESS, POLITICAL WILL, SOVEREIGNTY AND CONSENSUS ABOUT THE INTEGRATION PROCESS

Committee Observation

The Committee observed that the level of public awareness about the integration process remains low and this has constrained East Africans from accessing information about the opportunities and benefits accruing from integration or appreciating gains so far made. Although the EAC Partner States have close social and cultural ties emanating from pre-colonial times, the social and cultural life in the region is not homogeneous. Differences in post-colonial experiences and varied national contexts have generated cross-border cultural stereotyping and sometimes negative sentiments. Furthermore, most Countries are still wary about the loss of political power, national sovereignty and decision making.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to urgently revert back to the drawing board and assess what has been achieved and whether EAC is on track with regard to the 3 pillars of integration.

5.4 DELAY IN THE IMPLEMENTATION OF THE ROADMAP OF THE CONSTITUTIONAL MAKING PROCESS AND THE VARIOUS CHALLENGES ENCOUNTERED

The Committee was informed about the various challenges the constitutional making process has faced. This has negatively impacted on the constitutional making exercise resulting into delays such as;

Funding, with a required budget of 4.4 million USD of which only 450,000USD have been raised. The Republic of Uganda offered the first contribution of 150.000 USD that was used to undertake consultations in the Republic of Burundi. The Republic of Burundi also contributed 300.000 USD which will facilitate consultations in the United Republic of Tanzania and the Republic of South Sudan.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to immediately convene a meeting and deliberate on the matter so as to raise the requisite funding for the process to proceed.

5.5 LACK OF A FULLY-FLEDGED SECRETARIAT TO FACILITATE THE CONSTITUTIONAL EXPERTS

The Committee was informed that the process to constitute the Team of Experts has been derailed because Partner States delayed to submit the names of the Experts. Other Countries changed the Experts one year into the process.

The Secretariat is also heavily understaffed with literally no staff to facilitate the experts on a full-time basis. Ordinarily the process of this nature would be managed by a Team of Lawyers, Researchers, Economists, Sociologists, Accountants just to mention but a few.

The Committee was further informed that the Council was required to recommend the secondment and attachment of staff from Partner States to beef up the team at EAC Secretariat. However, the Council did not respect its obligation, allowing the Constitutional making process be facilitated with only five (5) EAC Staff Officials.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to direct the EAC secretariat to urgently recruit the necessary staff on a short-term basis to back up the constitutional making process.

Furthermore, Council should expedite the seconding of staff from the respective Partner States to the EAC secretariat to reinforce the lean team currently existing.

5.6 LINK BETWEEN THE FEARS AND CONCERNS RAISED BY EAST AFRICANS TOWARDS FAST TRACKING POLITICAL FEDERATION AND STEPS TO ADDRESS THEM

The Committee was informed that during the public consultation exercise, various stakeholders expressed fears and concerns towards fast-tracking the Political Federation. Some of these fears include:

- **Sovereignty.** The issue of sovereignty and the attendant notion of loss of national identity, political power, decision-making and flexibility in exercising powers.
- **Governance and democratic practices.** The divergent governance and democratic practices generated concerns on how the Federation will bridge the gap in governance and democratic deficits among the Partner States.
- **Differences in economic growth and strengths of EAC Partner States.** The economies of the Partner States are growing at varying pace and have reached different levels of progress. The fear among those with fastest growing economies is that those Economies growing at a slow rate would derail their progress. On the other hand, the poor performing economies feared marginalization. No formula has been developed to address issues of equity equitability in sharing the benefits accruing from integration without compromising the momentum of achievers.
- **Public awareness about the integration process.** The level of public awareness about the integration process remains low and this has constrained East Africans from accessing the opportunities and benefits accruing from integration process.

Committee Observation

The Committee observed that these concerns are very pertinent and crucial and if no urgent measures are taken, they are likely to delay the realization of the constitutional making process.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to examine the above-mentioned concerns and fears and devise mechanisms to address them.

5.7 THE LEVEL AND NATURE OF CONSULTATIONS, STAKEHOLDERS CONSULTED AND EXPECTATIONS OF EAST AFRICANS ON THE 3 PILLARS OF INTEGRATION

Committee Observation

The Committee observed that the most of the fears, concerns and challenges expressed by East Africans about Political Federation appear to be related to misinformation and inadequate information dissemination about the pillars of integration and stages of implementation. Paramount to this is the weak public consultation process at the Partner States level yet integration must be people centered. Article 7 of the Treaty requires close involvement of the people in the EAC processes for it to be people centered and owned.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to undertake a robust information and dissemination exercise aimed at ensuring that East Africans are constantly informed and updated on the East African integration process. Furthermore, the process of consultations should involve a wide range of stakeholders so as to enrich the process.

5.8 INVOLVEMENT OF EALA AS REPRESENTATIVES OF THE PEOPLE OF EAST AFRICA

Up until the Committee interacted with the department of political federation, there had been no involvement of EALA or the Committee of Regional Affairs in the processes of formulating the Constitution of East Africa. The lack of EALA's participation does not only deny EALA as a people's representative, the opportunity to contribute to the process, but it also undermines EALA's statutory mandate of oversight of the integration process. This situation is unacceptable as it is contrary to the promotion of good governance including accountability and transparency as stipulated in article 6 treaty.

Committee recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that as a matter of urgency measures be undertaken to enhance the role of the Assembly and the Committee of Regional Affairs and Conflict Resolution in the Constitution making process to allow EAC Legislative organ exercise its oversight and representative mandate.

5.9 NECESSITY TO REVISE THE ROAD MAP AND METHODOLOGY IN VIEW OF THE COVID 19 RELATED CHALLENGES

Just like any other EAC process or programs, the constitutional making has been affected by Covid19. The pandemic has not only limited the movements of constitutional experts, it has also affected the agreed and projected timelines which have resulted into delayed realization of the constitutional making process.

Committee Recommendation

The associated challenges brought about by COVID 19 notwithstanding, the Committee recommends that EAC should be proactive and embrace opportunities provided by digital technology to revitalize public consultation and guarantee that the process proceeds. This will entail revising the roadmap of drafting a model political confederation and adoption of new and relevant methodologies in view of the Corona virus pandemic.

5.10 CONCERNS OF THE DELAYED TIMELINES AND THEIR IMPLICATIONS TO THE AFRICAN UNION AGENDA 2063

Agenda 2063 is Africa's Union blueprint and master plan for transforming Africa into the global powerhouse of the future. It is the continent's strategic framework that aims to deliver on its goal for inclusive and sustainable development and is a concrete manifestation of the Pan-African drive for unity, self-determination, freedom, progress and collective prosperity pursued under Pan-Africanism and African renaissance.

The genesis of Agenda 2063 was the realization by African leaders that there was a need to refocus and reprioritize Africa's agenda from the struggle against apartheid and the attainment of political independence for the continent which had been the focus of the organization of African Unity, and instead to prioritize inclusive social and economic development, continental and regional integration, democratic governance and peace and security amongst other issues. This would in turn reposition Africa to becoming a dominant player in the global arena.

Agenda 2063 encapsulates not only Africa's aspirations for the future but also identifies key flagship programmes which can boost its economic growth and development and lead to the rapid transformation of the continent.

Agenda 2063 also identifies key activities to be undertaken in its 10-year implementation plans which will ensure that Agenda 2063 delivers both quantitative and qualitative transformational outcomes for Africa's people

Committee Observation

The Committee observed that the roadmap of the EAC Political Federation is way far behind the scheduled date of November 2025. The operationalization of the Confederation and ultimately the Political Federation was not mindful of the implications to the African Union Agenda 2063 and yet the EAC is a building block to the African union integration.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to revise the road map so that it aligned with EAC Agenda 2025 and African Union Agenda 2063.

5.11 LESSONS LEARNT AND BEST PRACTICES ON POLITICAL CONFEDERATION REGIONALLY AND GLOBALLY

The Secretariat was directed to formulate a model structure of political federation and the model was considered by the 14th Summit of the EAC Heads of State in 2012. Consultations were conducted in Partner States on convergence and on adopting a confederation model as a transitional model to political federation.

The Committee observes that when countries federate, there are various gains and advantages that accrue as a result. Furthermore, the past experiences and examples from other federations like the European Union can serve an example to inspire and lead EAC to a EAC political federation.

6.0 ELECTIONS OBSERVATIONS

Since 2007 the EAC has been involved in the Election Observation in the Partner States in fulfilment of the provisions of Article 6(d),7(2) and 123(c) of the Treaty for the Establishment of the East African Community. Deployment of Election Observers in the EAC Partner States is in line with the principles and values espoused by the EAC Treaty.

In order to actualise a concrete framework and comprehensive policy, "The Principles for Election Observation and Evaluation" was concluded in November 2012. The objectives of this policy are to promote democracy, human rights and the rule of law within the EAC Partner States. It also helps in contributing to

strengthening democratic institutions, building public in general elections as well as giving assurances for international standards.

Thus, in the pursuit of democratic governance, rule of law, peace, security and stability in the region, the EAC deploys Election Observation Missions to Partner States' elections. The EAC Observer missions aim at strengthening political accountability amongst Partner States and provide an opportunity for EAC Partner States to document best practices and learn from each other with the view of improving future electoral processes and democracy in general.

6.1 OBJECTIVES OF THE EAC ELECTION OBSERVATION MISSIONS

In line with the EAC Principles for election observation and evaluation, the objectives of the EAC election observation mission are to:

- a) conduct a comprehensive analysis of the electoral process (pre-election period, election period and post-election period) and offer an impartial, balanced and informed assessment of the elections;
- b) increase public confidence in the electoral process by encouraging the voters, political parties and other stakeholders to participate freely in a fairly competitive environment free of intimidation and violence;
- c) identify strengths, opportunities, challenges and weaknesses that can be harnessed into best practices and lessons for the region through peer learning by the electoral management bodies (EMBs); and
- d) assess the extent to which electoral outcomes reflect the will of the People of East Africa in line with international, continental and regional norms and standards governing democratic conduct of elections.

6.2 MANDATE AND FRAMEWORK FOR EAC OBSERVATION MISSION

Apart from the international (United Nations), and regional (African Union) frameworks, the Treaty for the Establishment of the East African Community (2000) provides for the mandate for the deployment of Elections Observation Mission to Partner States

The EAC Principles for Election Observation and Evaluation (2012) provides;

- a. Guidelines for EAC Election Observation Mission (EOM).
- b. Code of Conduct for Election Observers.
- c. The Purpose of the Mission.

d. To enhance democracy, rule of law and good governance which are essential for sustainable political, social and economic development of the EAC region;

The EAC election observation mission are generally in two forms: long term and short-term missions. On few occasions, there can also be pre-election assessment missions.

6.2.1 Technical Mission;

The technical or long-term mission works to gather information and background assessment of the contexts of the electoral environment and readiness of the stakeholders for the conduct of a free, fair, credible and peaceful election. The mission is composed of EAC Secretariat technical staff with the technical support of independent experts. The mission interacts with various stakeholders at technical level in order to appreciate the electoral environment and prepares the ground for the short-term mission.

6.2.2 Short Term Mission:

The short-term observer mission, comprises of delegates from Partner States, EALA, EACJ and backed up by EAC Secretariat staff. Through the Head of Mission, the short-term mission engages with electoral stakeholders in the period immediately before, during and after the elections.

6.3 PAST PROGRESS IN ELECTIONS OBSERVATION

Since the 2007, the EAC has deployed Observation Missions as follows;

- a.2007: The Republic of Kenya
- b. 2010: The Republic of Burundi and United Republic of Tanzania;
- c.2011: The Republic of Uganda;
- d.2013: The Republic of Kenya and Republic of Rwanda;
- e.2015: The Republic of Burundi and United Republic of Tanzania;
- f.2016: The Republic of Uganda;
- g.2017: The Republic of Kenya and Republic of Rwanda;
- h. 2020: The United Republic of Tanzania;
- i. 2021: The Republic of Uganda

It's imperative to note that due to COVID 19 and the restrictions of travels across international borders, the EAC could not deploy a full mission in Burundi.

However, small technical mission by the EAC Secretariat engaged with the stakeholders in the Republic of Burundi.

The EAC Secretariat has just concluded conducting an Elections Observer Mission to the Republic of Uganda.

7.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

i. Need to harmonize the existing elections policies, practices and processes

Committee Observation

The Committee observed that conducting periodic and regular elections contributes to the promotion of a democratic culture. Elections, if transparently conducted, promote and inculcate democratic values in election processes and gives the democratic exercise the legitimacy, acceptability and consolidation of good governance in the respective Partner States.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that there is harmonization of the existing legal framework, guidelines and standards that govern the EAC election observation missions and harmonize them with the international practices to avoid any mismatches.

The Committee recommends to the Assembly to urge the Council expedite the adoption of EAC protocol on Good governance.

Furthermore, the Committee recommends that policies, processes and practices of election observation and evaluation processes as well as support to national electoral commissions are identified as a key strategic intervention.

ii. Need for a holistic and comprehensive election observation mission

As earlier mentioned, the Committee observed that EAC normally dispatches a technical observation team but this again is not as comprehensive as it is supposed to be. The technical or long-term mission works to gather information and background assessment of the contexts of the electoral environment and readiness of the stakeholders to the conduct of a free, fair, credible and peaceful

election. For instance, the technical team for the Uganda mission comprised of only five (5) staff members namely;

- The Principal Political Affairs Officer
- The Peace and Security Expert
- The Principal Legal Officer
- The Programme Assistant
- And a Secretary

In most of the election observation missions, the EAC Secretariat has not complied with the election's observation guidelines (guideline 7) which outline the composition of the EAC Election observation missions. For instance, in the just concluded missions undertaken in the United Republic of Tanzania and Uganda, the observation team to a greater extent were dominated by non-core EAC staff who were not relevant to the mission. The team comprised of office messengers, secretaries, drivers, programme assistants, etc (See the attached list). The teams also had other professional staff not relevant to the mission.

The management of the election observation mission instead opted to make a trade-off for mandatory critical and statutory representation from the EAC Youth Ambassadors, the human rights institutions and civil society organisations for the above mentioned EAC staff.

Committee observations

- ***The Committee noted that election observers are dispatched 2 or 3 days before elections and have hardly enough time to prepare for election observation.***
- ***It is evident from the above that the team is not representative of key stakeholders and at best is very lean to be able to undertake a countrywide exercise in gathering comprehensive and relevant data for observation mission.***
- ***Omitting or the failure by the Secretariat to include the representatives of the key stakeholders on the election observation missions is not only contrary to the Treaty Establishing the East African Community; it is also rendering the entire processes a nullity and thus attempting to erode the very core tenets and principles to which the framers of this processes envisaged,***

Committee recommendation

- ***For future election missions, in planning for election observation, EAC should be mindful of the fact that elections are a process, not a one-day event. This calls for comprehensive preparation and careful planning; and further requires a careful examination and analysis of the entire pre-election period, the voting day up to post-election developments.***
- ***There is need to observe the elections in 3 phases of the election cycle. This includes the Pre-election period, during elections, post-election period, counting and release of results to be confident to report whether the elections were credible, free and fair.***
- ***Once the mission has been confirmed, appropriate personnel and relevant stakeholders must be carefully selected to ensure mission goals are met. For comprehensive observation, this means assembling a team that involves all stakeholders as outlined in the EAC Elections observations mission code of conduct. In addition, since this is a political process, EALA should play a critical role in all phases of election observation.***

iii. Funding of Election Observation Missions

For an election observation mission to be credible, and gain universal acceptability, it is imperative that the observer mission is represented, professionally competent, impartial and the ability to map out a balanced geographical coverage.

Suffice to note, that effective election observation have financial implications. During engagement with the officials responsible for EAC election management, the Committee was informed that financial support for the election observation missions has been decreasing over the years. This has affected performance of the election observation missions. For instance, the Committee was briefed that since 2020, the European Union has been funding the EAC election observation missions. This financing arrangement ended in 2017 after supporting the observation missions to Kenya and Rwanda.

A comprehensive EAC election observation mission requires not less than Five hundred thousand (USD 500,000). The funding for observer missions reduced to 180,000 USD for the United Republic of Tanzania mission and a further 120,000 USD for the mission to the Republic of Uganda. Furthermore, the Committee was informed that currently, the Council has competing financial

obligations that makes it difficult to allocate adequate budget for observer missions. Whereas the EAC Secretariat has been working hard to attract other potential donors for this purpose, it is critical that the missions are funded by ordinary EAC budget contributed by Partner States.

Committee Observations

The Committee observed that most of the past election observation missions have largely been donor funded with the European Union taking the lead. It was however noted that the observation missions are not annual activities hence, the possibility to prioritize whenever an election process emerges in a Partner State. Notably, the elections in EAC Partner States are periodic with clear and defined calendars and follow a defined cycle and are not an abrupt event. It is important therefore, for the Council to prioritize the funding for the EAC elections observation missions.

Committee Recommendation

The Committee recommends to the Assembly to urge the Council of Ministers to ensure adequate funding for the EAC election observation missions rather than relegating this important function to external Partners. Development Partners should only compliment the EAC efforts.

iv. Elections observation reports and reporting.

The election observation missions have always come out with reports and recommendations for the improvements in the conduct of elections as well as consolidation of good governance and other democratic practices in the Partner States. The report is adopted by the Council before forwarding it to the respective Partner State.

For this reason, the Secretariat is developing a monitoring framework for the reporting on the implementation of the recommendations of the election observation Missions. The Assembly on its part can advocate for the implementation of the recommendations of the observation mission –which ideally is a peer report of Partner State delegates that observed the elections.

viii. Tabling of the election observation reports before the Assembly.

Committee Observation

The Committee observed that the election observation reports are prepared by the EAC Secretariat and adopted by Council before forwarding them to Partner

States leaving out the Assembly in the oversight and approval processes. This has denied the Assembly the opportunity to provide critical inputs to the report so as to enhance ideals of good governance and accountability. The Committee further observes that the challenges and recommendations contained in these reports are often not addressed or implemented.

Committee recommendations

- ***The Committee recommends to the Assembly to urge the Council of Ministers to ensure that the election observation reports are laid in the House prior to being forwarded to the Partner States.***
- ***Strengthen the EALA participation in the EAC election observation missions to effectively deliver on its cardinal function of oversight and representation.***
- ***EALA should also work closely with the Secretariat to enhance its capacity of Members with election observation skills.***

8.0 CONCLUSION

Political integration is a qualitatively deeper form of integration. Achieving it requires that the pillars of political federation that is; a common foreign policy, peace and security, and good governance are established and strengthened. It also requires structural transformation of regional policies, institutional arrangements and capacities to support the deeper goal of development. However, the legitimacy and sustainability of the East African Political Federation will depend upon the extent to which development is achieved. What is critical for a successful federation is a positive environment characterized by among other factors, a strong political will, commitment, people led process and the existence of viable regional structures. The political environment for the EAC should warrant stakeholders to engage in a robust constitutional making exercise which ensures a comprehensive consultative process with clear benchmarks for a model political confederation. Convergence by the Partner States on adopting a confederation as a transitional model to political federation is paramount in this regard.


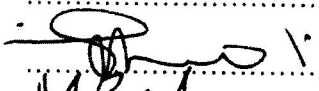

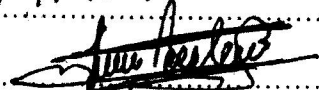
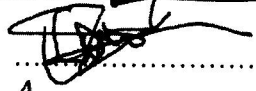
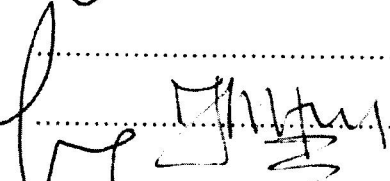
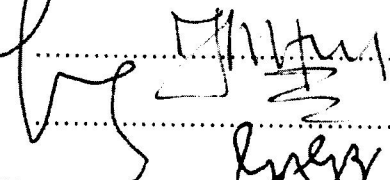
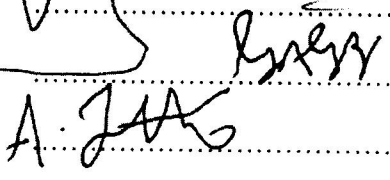

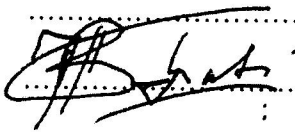
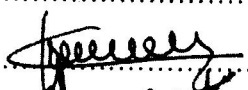
Last but not least, the political will of the citizens of the East Africa is manifested through the holding of regular, free and fair elections that call for full participation of citizens and authentication by a comprehensive and yet an

independent election observers' team. This team should be guided by clear benchmarks as is the case with the EAC elections observation processes. Furthermore, the recommendations from the observer teams should be the basis for improved action.

9.0 RECOMMENDATION

The report has been enriched and has borrowed practical solutions, and best practices from various jurisdictions in the quest of developing a sound, progressive and fast political confederation and elections observation missions. The Committee therefore recommends that the report be adopted.

REPORT OF THE COMMITTEE ON REGIONAL AFFAIRS AND CONFLICT RESOLUTIONS ON THE PROGRESS MADE BY THE COMMUNITY TOWARDS ACHIEVING THE EAST AFRICAN COMMUNITY CONFEDERATE CONSTITUTION AND THE EAC ELECTIONS OBSERVER MISSIONS FROM 29TH NOVEMBER - 3RD DECEMBER, 2020

1. Hon. Amb. Fatuma Ndangiza 
2. Hon. Victor Burikukiye
3. Hon. Rose Akol Okullu 
4. Hon. Mary Mugenyi 
5. Hon. Dr. Pierre-Celestin Rwigema 
6. Hon. Gideon Gatpan Thoar 
7. Hon. Dr. Ngwaru J. Maghembe
8. Hon. Josephine Lemoyan 
9. Hon. Fancy Nkulu 
10. Hon. Gabriel Alaak Garang 
11. Hon. Dr. Anne Itto Leonardo 
12. Hon. Adan Noor
13. Hon. Lawrence Mpuru Aburi
14. Hon. Dr. Oburu Oginga
15. Hon. Alex Bahati 
16. Hon. Chris Opoka Okumu
17. Hon. Mo-Mamo Karerwa 
18. Hon. Christopher Nduwayo 