2017-06-03

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The New Times

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By James Karuhanga

Political hurdles in Kenya and legal difficulties in South Sudan delayed the inauguration of the fourth East African Legislative Assembly (EALA) but only the continued uncertainty in Nairobi now threatens further delay as the stalemate in Juba is over, officials say.

Initially, the fourth EALA was supposed to be sworn in on June 5 but that didn’t happen as Kenya had not decided who its nine representatives are.

Matters worsened that same date when the East African Court of Justice (EACJ) granted an interlocutory order restraining the Assembly from recognizing nominees from South Sudan on grounds that the manner in which they were appointed violated Article 50 of the EAC Treaty. The swearing-in was then postponed by the Assembly until further notice.

"EALA is yet to be inaugurated and constituted due to political hurdles in Kenya and legal hurdles in South Sudan," Bobi Odko, the Assembly’s senior public relations officer, told The New Times.

"Kenya is yet to hold the elections; and the House [Kenya’s parliament] went into recess on June 15. Though there exists provision in the standing orders for the Speaker to call Special Sittings if need be. If such a sitting is not called, then Kenya could probably hold its elections for EALA post the General elections."

Kenya has general elections set for August 8.

MP Abubakr Ogle (Kenya), one of the 19 candidates already nominated to take up the vacant Juba seat in the EALA, said that Kenya “can’t be constituted in the absence of the Kenyan members.”

"And it’s unlikely that Kenya would have elected its nine members anytime soon! The impact is massive. There’s no Assembly. They can’t be sworn in, much less, undertake any business, including election of Speaker and constitution of committees!” Ogle said.

The matter was compounded by interlocutory orders earlier handed to the Clerk of the Assembly, Kenneth Madete, by the Court during the swearing in of EALA members and recognition of those from South Sudan.

The application was filed by Wani Santino, a citizen of South Sudan, against his own’s Attorney General, the Speaker of the Parliament, and the EAC Secretary General. The man, who represented himself at this ex parte hearing, said that in March, President Salva Kiir Mayardit of South Sudan appointed nine persons to represent the country in EALA “in violation of Article 50 of the EAC Treaty on EALA elections.

According to the Treaty, national parliaments of each Partner State shall elect, not from among its members, nine members of the Assembly, who shall represent as much as it is feasible, the various political parties represented in the National Assembly, ad hoc groups, political parties, and other special interest groups in that Partner State, in accordance with such procedure as the National Assembly of each Partner State may determine.

Fresh polls in Juba

South Sudan later revoked the nine names earlier sent to EALA and is expected to hold fresh polls in adherence to Article 50 of the EAC Treaty and the Rules of Procedures.

Last week, the Court announced Jada withdrew his application after the consent by the representatives of the Attorney General and the Speaker of the Transitional Legislative Assembly of South Sudan. The latter revoked the nomination of their previous nine members to EALA and committed to holding fresh elections that meet the requirements of Article 50 of the EAC Treaty.

Younis Alloro, Clerk of the South Sudan Assembly, disclosed that his country’s Attorney General and the Speaker of the Assembly from the end of the life of one Assembly to the new one. That may help to address the matter.

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