

Political hurdles in Kenya threaten to further delay EALA inauguration

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 interim 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 Odiko, 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 Sitting 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 15 candidates already nominated to take up the ruling Jubilee party's five slots available for the latter in the Assembly knows that EALA "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 simple. 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 interim orders earlier handed to the Clerk of the Assembly, Kenneth Madete, by the Court barring the swearing in of EALA



MP Abubakr Adbi Ogle of Kenya during an EALA session in Kenya early this year. EALA has yet to start as Kenya is yet to name representatives. File

Members and recognition of those from South Sudan.

The application was filed by Wani Santino Jada, a citizen of South Sudan, against his country's Attorney General, the Speaker of the Parliament, and the EAC Secretary General. The man, who represented himself at the ex parte hearing, said that in March, President Salva Kiir Mayardit of South Sudan appointed nine persons to represent the Partner State 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, shades of opinion, gender 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 have held fresh polls in adherence to Article 50 of the EAC Treaty and the Rules of Procedures.

Last week, the Court announced that 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 withdrew its nominees to EALA because of

"some irregularities discovered" after the election process not being compatible with Article 50 of the EAC Treaty and the EALA Election Act, 2011; to include women representation.

"Thus, South Sudan committed itself to redo the elections complying with the legal frameworks stated. This has been the consent agreed upon by the two parties before the Court," Alloro said.

The parliament in Juba, Alloro explained, adopted the elections regulations this past week and will start the next step this coming week.

How problem can be prevented

The EALA elections in Partner States as currently constituted, is based on adherence to Article 50 of the EAC Treaty as the fundamental basis, and then substantively on the Rules of Procedure or Laws that govern each nation-

al legislature.

This, Odiko explained, is therefore an area that the Assembly "cannot control" even though it would wish the elections would be timely to ensure smooth transition and for Partner States to address any matters arising.

In the past similar elections were held in a timely manner in the Partner States.

One way to help address the matter and avoid future incidents, Odiko noted, is that the EAC Treaty can be amended to allow for enhancing the operations of EALA and the EAC at large.

"Certain provisions may be included or strengthened for example, to ensure timely elections of Members and within a timeframe to avoid a lacuna in EALA from the end of the life of one Assembly to the new one. That may help to address the matter."

editorial@newtimes.co.rw