



**East African Legislative Assembly, Bujumbura, Burundi; March 26, 2015:** EALA has today adjourned the debate on the EAC Cross-Border Legal Practice Bill, 2014 until the next Plenary sitting.

The move follows the successful adjournment by way of motion of the debate of the Report of the Committee on Legal Rules and Privileges with regard to the Cross Border Legal Practice Bill, 2014.

The motion moved by the acting Chair of the Council of Ministers, Hon Abdullah Saadalla shall allow the Council to enter into further consultations.

The motion was moved under Rule 30 (c) of the Rules of Procedure of the Assembly.

The Report of the Committee was presented to the House by Hon Taslima Twaha on behalf of

the Chairperson, Hon Peter Mathuki.

The Report followed consultations with key stakeholders in the capitals of the Partner States including representatives of the Law Societies/Bar Associations, Ministries of Justice and Constitutional Affairs, Law Schools and Faculties; and Civil Society Organizations.

In principle, according to the report, the East African Law Society and National Law Societies in the EAC acknowledge the need for the enactment of an EAC Cross Border Legal Practice Law to facilitate provision of Cross border legal services.

However, the report states that some National Law Societies hold unfounded reservations on the implications of enactment of an EAC Cross Border Legal Practice law. This is based on the perception that it would increase competition for legal services negatively, interfere with their turf and swamp certain jurisdictions with lawyers from other jurisdictions.

Notwithstanding the existence of a common law and civil law system in EAC Partner States; lawyers in the EAC have ingeniously already devised ways practicing law across borders through partnerships; and short term permits which at times are cumbersome and not reliable and thus the need for a specific law to ease what is already in practice.

The Committee thus recommends that Mutual Recognition Agreements, if any, on Cross Border Legal Practice should form a building block for a legal mechanism which is enforceable and obliges Members of the legal profession to adhere to quality, set standards and gradually encourages harmonization of legal services.

The Committee further avers that enactment of the Cross Border Legal practice law is hinged on Treaty provisions and in particular the Common Market Protocol and should therefore be expedited in order to regulate quality services to all.

In seeking adjournment today, the minister noted that it was necessary to see the applicability of Article 126 of the EAC Treaty which is the legal basis for the Bill. Minister Saadalla mentioned that article 126 deals with co-operation in legal and judicial affairs in two main areas, harmonization of legal training and certification and standardization of the judgements of courts within the Community.

The Council of Ministers is also of the view that the parallel efforts be synchronized towards achieving the goal. On the one side, the Council of Ministers is finalizing a policy with regards to an annex to the Common Market protocol on harmonization of academic and professional qualification regulations. On the other side, EALA is keen to enact the legislation.

It is thus necessary that the two Organs synchronise their efforts and avoid parallel processes, Minister Saadalla says.

Members who rose to contribute to the Motion included Hon Judy Pareno, Hon Susan Nakawuki, Hon Mike Sebalu and Hon Abubakar Zein. Others were Hon Abdullah Mwinyi, Hon Dora Byamukama. Many however were cautious urging Council of Ministers to duly bring back the Bill on time.

The EAC Cross Border Legal Practice Bill, 2014, moved by Hon Dora Byamukama seeks to operationalise Article 76 of the Treaty providing for free movement of labour, goods, services capital and the rights to establishment. It also takes into cognizance of the mutual recognition of the academic and professional qualifications. In her justification, Hon Byamukama states that time had come for the Community to fastrack the Bill as the region deepens the integration process.

The recent extended jurisdiction of the East African Court of Justice to include areas of trade indeed requires lawyers to practice across borders”, she said. The mover congratulated the Republics of Rwanda and Kenya for amending their respective Advocates Act to enable lawyers from the other Partner States practice in their jurisdiction.

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