

East African Community Law

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East African Community Law

Institutional, Substantive and Comparative EU Aspects

Edited by

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Preface

The East African Community (EAC) is a regional intergovernmental and supra-national organization currently comprising the Republics of Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda. Established in 2000, the EAC aims at widening and deepening co-operation among its Partner States in, among others, political, economic and social fields.

The organization has established a Customs Union (2005) and a Common Market (2010), and is in the process of establishing a Monetary Union. Its ultimate objective is to establish a complete political (con)federation. It emphasizes strong participation of the private sector and civil society. The accomplishment of these objectives requires an elaborate and functionally-purposed institutional framework.

The EAC aims at far deeper integration than envisioned by its predecessor, whilst simultaneously avoiding the mistakes that led to the failure of previous attempts at East African integration. Important safeguards include a gradual approach to integration and guarantees to ensure an equitable division of the benefits of integration.

There is a general consensus that the European Union (EU) was an important source of inspiration and provided a normative model for the EAC. Indeed the EAC Treaty and the Protocols have adopted and adapted significant parts of the EU's institutional and legal framework. The normative appeal of the EU in this regard can also be readily understood. Despite all the past *and* present failures and challenges facing the EU, no objective observer can deny the benefits of European integration in terms of peace, stability and prosperity. What started 60 years ago as a Community between six Member States in a Europe destroyed by two world wars has now developed into the most peaceful and prosperous block in the world.

Consequently, there are lessons to be learned from the European experience, including the crucial role of the law and of lawyers in the process of integration, be they judges, lawmakers, civil servants, academics or practitioners. The law is one of the most powerful and indispensable instruments to achieve true integration, as effective integration requires some form of supranational legal system. That is what we mean by "Integration through law". Awareness of the possibilities the law offers, therefore, is extremely important for any form of regional integration.

The main challenges facing the EAC today in this regard are how to safeguard the quality of the increasing body of Community law, how to monitor compliance, and how to make EAC law binding and enforceable within national legal systems. All of these are challenges that the EU has faced in the past and is still facing, and where both the success and the failures of the EU may be of comparative use to the EAC, certainly considering the many similarities in the institutional and legal framework of both and the similarities of the challenges faced.

The main purpose of this book, initiated by the Leiden Centre for the Comparative Study of EAC law (LEAC) in close cooperation with Hon. Justice Dr Ugirashebuja, the current President of the East African Court of Justice, is to be a source of information and education for all those involved in shaping, improving and studying integration in the EAC. By comparing each aspect of both institutional and substantive EAC law with its nearest counterpart EU law, we hope to have created a vital tool to better understand and move forward the integration process in East Africa.

Considering these aims, we are proud that, thanks to the generous support of the law firm Allen & Overy LLP, the European Union and the Europa Institute of the University of Leiden, this book will not just be available in printed form but will also be freely available online via a completely Open Access agreement with Brill Publishers.

We have been fortunate to find excellent authors from the different EAC Partner States, all leading experts in their respective fields, enabling us to cover all legal aspects of the EAC. We are very grateful for their wonderful contributions and constructive participation in this ambitious project. In addition, we have greatly benefitted from the excellent research and editorial assistance provided by Ties Boonzajer Flaes, Louise O'Callaghan, Brenden Fourie, Timothy Kawira, Carlota de Paula Coelho, and Merel Valk, as research assistants of the LEAC. We are much indebted to them for, among other things, ensuring consistency between the chapters. As always, however, responsibility for the final product remains with the authors and editors.

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November, 2016

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