



As Congo joins the East African Community , opportunity for business and legal assistance in the region

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The Democratic Republic of Congo [DRC] deposits instruments this July 2022, of ratification and accession of the Treaty for the Establishment of the East African Community [EAC] with the Secretary General of the Community. This is an important milestone as it means the ***DRC will now be a full member of the East African Community with full and equal rights, obligations and privileges as the other Partner States.***

We shall recall that the DRC was admitted as the seventh member of the regional bloc on March 29, 2022 during the virtual 19th Extraordinary Summit of EAC Heads of State. Following this, the DRC was required to sign the treaty to officially become a member. This was done on the 8th April 2022 by President Tshisekedi who signed the Deed of Accession with the EAC Heads of State Summit chair President Uhuru Kenyatta, as per the requirements of the EAC admission process.

Despite some enthusiasm about this brand-new membership, some doubt the relevance of the DRC contribution and wonder how this membership could be profitable to the DRC. ***From our part as Lawyers, the DRC admission is an opportunity for business, trade, free movement of people, peace and security including the legal certainty.***

We urge the Congolese lawmakers to quickly ratify the EAC laws and regulations to enable them to come into effect. The other step will be the harmonisation of the laws in the East African Community (EAC) states as required by the Treaty for the Establishment of the EAC. To achieve one of the objectives of the Community, which is co-operation in legal and judicial affairs, the Partner States, under Article 126(2)(b) of the Treaty, undertook to harmonise all their national laws pertaining to the Community.

It is also an opportunity for business and people of the region for their cases to be heard before the world-class Court dispensing quality justice for a prosperous Community. The ***East African Court of Justice [EACJ]*** aims to contribute to regional Integration by ensuring adherence to

justice, rule of law and fundamental rights and freedoms through the interpretation and application of and compliance with the East African Community Law.

The East African Court of Justice (EACJ), is one of the organs of the East African Community established under Article 9 of the Treaty for the Establishment of the East African Community. Established in November 2001, the Court's major responsibility is to ensure the adherence to law in the interpretation and application of and compliance with the EAC Treaty.

The Court has jurisdiction over the interpretation and application of the Treaty. It also provides: Advisory Opinions; Preliminary Rulings to National Courts; and Arbitral awards if contracts and agreements confer jurisdiction.

Who can initiate proceedings?

- ***Individuals and companies or societies:*** Any individual or legal person (such as an NGO or company) who is a resident of a Partner State may challenge an Act, regulation, directive, decision or action of the State or an institution of the Community on the grounds that it is unlawful or infringes the provisions of the Treaty (Article 30(1)).
- ***Partner States:*** A Partner State can refer a matter to the Court if it considers that another Partner State, an organ or an institution of the Community has failed to fulfil an obligation under, or has infringed a provision of, the Treaty (Article 28(1)). A Partner State can also ask the Court to determine the legality of any Act, regulation, directive, decision or action on the ground that it is ultra vires (beyond power or authority) or unlawful or infringes the provisions of the Treaty (Article 28(2)).
- ***Secretary General:*** The Secretary General of the Community can refer a matter to the Court if it considers that a Partner State has failed to fulfil an obligation under, or has infringed a provision of, the Treaty (Article 29).
- ***National courts:*** National courts can refer a matter to the Court for a preliminary ruling on a question of Treaty interpretation or the validity of a Community regulation, directive, decision or action (Article 34).

Arusha is the temporary seat of the Court until the Summit determines its permanent seat. The Court's sub-registries are located in the respective National Courts in the Partner States.