



EAST AFRICAN COURT OF JUSTICE

STRATEGIC PLAN

2018-2023

April, 2018

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ABBREVIATIONS AND ACRONYMS

CMJA	-	Commonwealth Magistrates and Judges Association
EAC	-	East African Community
EACJ	-	East African Court of Justice
EALA	-	East African Legislative Assembly
EAMJA	-	East African Magistrates and Judges Association
HIV/AIDS	-	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
KLR	-	Kenya Law Reports
SCT	-	Single Customs Territory
ICT	-	Information and Communication Technology

FOREWORD

This Strategic Plan for the East African Court of Justice is being developed at a time when the East African Community has made remarkable progress and achievements in certain areas of cooperation. For instance, in the legal sector some work has gone into putting in place policies aimed at harmonizing legal training and certification; which is expected to encourage standardisation of judgments of Courts within the Community and approximating the Partner States municipal laws. Some progress has also been registered in the trade and investment areas. The East African Legislative Assembly has enacted some Community Legislation, thereby contributing towards the Community legal system. Various activities aimed at sensitizing stakeholders on the EAC programmes, projects and activities have been undertaken by different Organs of EAC.

On the part of the Court, some achievements have been registered. The Court, like other Organs of the Community, is established under the Treaty and has been in existence since November 2001 when it was inaugurated. It has since contributed, within its mandate, to the EAC Integration process by settling disputes, for instance cases number 1 of 2011 and number 9 of 2012 between the East African Law Society and The Secretary General of the East African Community and The East African Centre for Trade Policy and Law and the Secretary General of the East African Community respectively were both on Common Market and Customs Union Protocols . As a result, the EACJ has guided the integration process as mandated by the Treaty and also contributed to regional jurisprudence.

The Court aims to have its integral role in the EAC integration process recognized and appreciated. For the EAC to enjoy increased trade and enhance its economic development, it is crucial to have a functional and trusted dispute resolution mechanism in place. This will go a long way in building investor confidence and assuring East African Citizens that there is an organ that is capable of guiding the integration process according to law, thereby leading to enjoyment of the fruits of integration by all. This Strategic Plan will guide EACJ in playing this important role of being a trusted, world class dispute resolution organ of the Community.

Justice Dr. Emmanuel Ugirashebuja
The President
East African Court of Justice

PREFACE

This Strategic Plan reflects the aspirations of the East African Court of Justice in delivering its mandate. It draws together the Vision, Mission and Values that drive the work of the Court and sets out the strategic issues, objectives, strategies and priority activities for the period 2018-2023. The Plan sets out the strategic direction for the Court for the entire period. It will guide management of the Court to ensure resources are utilized efficiently and effectively.

Since its inauguration in 2001, the Court has made commendable contributions towards EAC integration and in building regional jurisprudence. It will continue building upon its past achievements thereby providing more value to EAC residents.

The services of the Judges of the Court continue to be *ad-hoc* and this has affected the overall performance of the Court. Visibility of the Court continues to be a challenge limiting its utility. And despite being at the core of the EAC integration process, there has been regrettable delay in operationalizing its financial autonomy.

It is against this background that the Court has developed this Strategic Plan. The Plan will guide the Court in addressing existing and emerging challenges and charting its way to the emerging EAC future. The Plan will also help the Court develop its capacity to work and improve performance.

By this plan, the EACJ reaffirms its dedication to the development of EAC through support of the integration process, promotion of rule of law and development of regional jurisprudence.

**His Worship Yufnalis Okubo
The Registrar
East African Court of Justice**

EXECUTIVE SUMMARY

The EACJ was inaugurated in November, 2001 as the judicial arm of the EAC. Since its inception, the Court has made commendable progress in realizing its mandate. It has contributed to the EAC integration process by settling disputes. In this way, it has guided the integration process and contributed to the development of regional jurisprudence.

Despite its accomplishments, the Court faces significant challenges in carrying out its work. It still operates on an *ad-hoc* basis due to the nature of the services of the Judges. Staffing is lean and the Court has limited internal capacity to carry out its mandate.

The volume of work facing the Court is increasing. The continued deepening and widening of EAC integration means more economic, financial, commercial, social, labour and political transactions. The potential disputes that will arise out of the transactions require the involvement of the Court.

It is important that the Court confronts the challenges facing it and develops adequate internal capacity to deliver on its mandate. The Court needs to raise its visibility higher to be appreciated for the work it does. With this in mind, the Court developed this Strategic Plan (2018-2023). It builds upon the success of the previous Strategic Plan.

The Strategic Plan charts the way forward for EACJ over the next five years. This has been done by articulating the vision, mission, core values, critical issues, objectives and strategies for the Court.

Vision: A world class Court dispensing quality justice for a prosperous Community.

Mission: 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.

**Core Values: -Independence
-Integrity
-Impartiality**

Strategic Issues facing the Court:

- i) Institutionalization of the Court;
- ii) Design of the Court under the Treaty;
- iii) Appreciation of the Court;
- iv) Visibility of the Court;
- v) Capacity of the Court; and
- vi) Information Communication Technology (ICT).

Strategic Objectives of the Court:

- i) To end the transitional life of the Court;
- ii) To strengthen the institutional independence of the Court;
- iii) To extend the Court’s jurisdiction to other Original, Appellate and Human Rights matters as envisaged in the Treaty;
- iv) To improve the design of the Court for optimum performance;
- v) To actively engage EAC Policy organs and other stakeholders on the role and place of the Court in the EAC integration agenda;
- vi) To enhance the Court’s visibility and make its mandate better known to its stakeholders and other Court users;
- vii) To enhance institutional capacity of the Court;
- viii) To enhance ICT as a driving tool for the Court’s operations (Court processes);
- ix) To improve the administration, accounting, human resources and security function of the Court; and
- x) To drive the change from manual systems to digital systems across EACJ.

Overall Strategy of the Court

The core business of the Court is dispensation of quality justice. This involves:

- i) Settlement of disputes;
- ii) Provision of advisory opinions;
- iii) Provision of preliminary rulings; and
- iv) Arbitration.

For this to be achieved and in pursuance of service excellence, the works of the Judges and the Court Registrar which are core to the services provided must be fully supported.

The Court will, therefore, organize its operations to provide full support to the Judges. It will endeavour to enhance its capacity to provide such support by:

- i) Strengthening performance management;
- ii) Undertaking increased relevant human resources development;
- iii) Establish a resource mobilization strategy;
- iv) Strengthen ICT as a driving force for service provision; and
- v) Provide a safe and conducive work environment.

To commit to implementation, the strategic issues and the corresponding objectives, strategies and activities have been set out in the implementation matrix presented as **Appendix I**. The matrix also indicates timelines for implementation and the persons responsible for carrying out the activities.

1 CHAPTER ONE: INTRODUCTION

1.1 East African Community

The East African Community (EAC) is a regional organization of Six (6) Partner States: the Republics of Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda, with its Headquarters in Arusha, Tanzania. Kenya, Tanzania and Uganda have enjoyed a long history of co-operation under successive regional integration arrangements including having had a Customs Union between Kenya and Uganda in 1917, which the then Tanganyika later joined in 1927; the East African High Commission (1948-1961); the East African Common Services Organization (1961-1967); and the East African Community (1967-1977) which was revived on the 7th/July/2000 through the Treaty for the Establishment of the East African Community (the Treaty Establishing EAC) signed in 1999 by Kenya, Uganda and Tanzania. Burundi and Rwanda became members in 2007 while South Sudan gained accession in April 2016. Underpinned by their historical links, Kenya, Uganda and Tanzania had established strong economic co-operation laying the groundwork for further political, economic and social integration of the EAC member States.

The EAC is home to about 160 million citizens, 22% of which is urban population. With a land area of approximately 2.8 million square kilometres and a combined Gross Domestic Product of US\$ 84.7 billion (EAC Statistics for 2016), its realization bears great strategic and geopolitical significance and a potential precursor to the establishment of the East African Federation, a proposed federation of its member States into a federal sovereign state with prospects for the renewed and reinvigorated EAC. As one of the fastest growing regional economic blocs in the world, the EAC is widening and deepening co-operation among the Partner States in various key spheres for their mutual benefit. These spheres include political, economic and social.

The process towards an East African Federation is being fast-tracked, underscoring the serious determination of the East African leadership and citizens to construct a powerful and sustainable East African economic and political bloc. The regional integration process is being realised through the East African Customs Union, the establishment of the Common Market in 2010 and the implementation of the East African Monetary Union Protocol and ultimately establishment of a Political Federation of the East African States. The Treaty Establishing EAC stipulates the following principles to enhance policy harmonization and integration in the EAC region:

- i) The attainment of sustainable growth and development of the Partner States by promotion of a more balanced and harmonious development of the Partner States;

- ii) The strengthening and consolidation of cooperation in agreed fields that would lead to equitable economic development within the Partner States and which would in turn, raise the standard of living and improve the quality of life of their populations;
- iii) The promotion of sustainable utilization of the natural resources and taking of measures that would effectively protect the natural environment of the Partner States;
- iv) The strengthening and consolidation of the long-standing political, economic, social, cultural and traditional ties and associations between the peoples of the Partner States so as to promote a people-centred mutual development of these ties and associations;
- v) The mainstreaming of gender in all its endeavours and the enhancement of the role of women in cultural, social, political, economic and technological development;
- vi) The promotion of peace, security, and stability within, and good neighbourliness among the Partner States; and
- vii) The enhancement and strengthening of partnerships with the private sector and civil society in order to achieve sustainable socio-economic and political development.

The vision of the EAC is, **“To Create a Prosperous, Competitive, Secure (stable) and Politically united East Africa.”**

Its mission is, **“To Widen and Deepen Economic, Political, Social and Cultural integration in order to improve the quality of life of the People of East Africa.”**

Key Priorities for the EAC

Priorities for the EAC for the next five years include the following as highlighted in its Development Plan 2016/2017- 2020/2021:

- i) Increased food security, agricultural goods trade;
- ii) Peace, security & good governance;
- iii) Consolidation of Single Customs Territory (SCT);
- iv) Further liberalization of free movement of skilled labour;
- v) Technological advancement & innovation;
- vi) Regional industrial development; and
- vii) Institutional transformation.

In pursuing these priorities the EAC will endeavour to use evidence-based decision-making, multi-stakeholder consultative approach, monitoring & evaluation and be resource efficiency.

Organs and Institutions of the EAC

The Community operates through several organs and institutions established under Article 9 of the Treaty. The **East African Court of Justice** is one of them.

Other organs of the Community are as follows:

The Summit: This comprises Heads of States or Governments of the Partner States. It gives general direction towards realization of the goals and objectives of the Community.

The Council of Ministers: This is the policy making organ of the Community. It is made up of Ministers responsible for East African Affairs/Regional Co-operation from the Partner States and such other Ministers as each Partner State may determine.

The Co-ordination Committee: This consists of Permanent Secretaries responsible for East African affairs in each Partner State and such other Permanent Secretaries of the Partner States as each Partner State may determine. The Co-ordination Committee recommends to the Council the establishment, composition and functions of these Committees as may be necessary for the achievement of the objectives of the Treaty.

Sectoral Committees: These are responsible for the implementation of programmes within their sectors

The East African Legislative Assembly: This is the legislative organ of the Community mandated to enact laws, debate and approve Community budget, consider annual reports on activities of the Community, annual audits and perform oversight function of the Community.

The Secretariat: This is the executive arm of the Community. It comprises the following offices in the service of the Community: Secretary General, the Deputy Secretaries General, Counsel to the Community and such other offices as may be deemed necessary by the Council.

EAC Institutions: In addition to the Organs enumerated above, the East African Community has the following Institutions: the Lake Victoria Basin Commission (LVBC); the Civil Aviation Safety and Security Oversight Agency (CASSOA); the Lake Victoria Fisheries Organization (LVFO); Inter-University Council for East Africa (IUCEA), the East African Development Bank (EADB), the East African Science & Technology Commission (EASTECO), the East African Kiswahili Commission (EAKC), and the East African Health Research Commission (EAHRC).

1.2 The East African Court of Justice

The East African Court of Justice (EACJ) is the judicial arm of the Community. It was inaugurated on 30th November 2001, when the first batch of Judges and the Registrar were sworn in.

The Treaty establishing the EAC is the one which confers powers to the EACJ and is established as an organ of the EAC under Article 9 of the Treaty. The Mandate of the Court is to ensure adherence to law in the interpretation and application of and compliance with the Treaty.

The Court has two divisions, the First Instance and the Appellate Divisions with their seat currently in Arusha. The First Instance Division comprises of 6 Judges (one from each Partner State) while the Appellate Division comprises of 5 Judges drawn from Burundi, Kenya, Rwanda, Tanzania, and Uganda. The EAC Treaty limits the number of Judges to 15. The Judges are appointed by the Summit on recommendation of the Partner States for seven (7) years tenure. The retirement age for the Judges is seventy (70) years.

The Court is headed by a President who is responsible for the administration and supervision of the Court. He directs the work of the Appellate Division; represents it, regulates the disposition of the matters and presides over sessions in this Division. The Principal Judge directs the work of the First Instance; represents it and regulates the disposition of matters and presides over sessions of this Division. The day to day administration of the Court is done by the Registrar assisted by the Deputy Registrar and Court Administrator with the support of other Court staff.

Jurisdiction of the Court

The Court has jurisdiction over the interpretation and application of the Treaty, provided that the Court's jurisdiction to interpret the Treaty does not include the application of any such interpretation to jurisdiction conferred by the Treaty on organs of Partner States. It has also jurisdiction over disputes between the Community and its employees.

In addition to the above jurisdiction, the Court has a mandate of rendering advisory opinions upon request by the Summit, the Council or a Partner State. It also has arbitral jurisdiction on matters:

- i) Arising from an arbitration clause contained in a contract or agreement which confers such jurisdiction to which the Community or any of its institutions is a party; or

- ii) Arising from a dispute between the Partner States regarding this Treaty if the dispute is submitted to it under a special agreement between the Partner States concerned; or
- iii) Arising from an arbitration clause contained in a commercial contract or agreement in which the parties have conferred jurisdiction on the Court.

Under Article 35 (A), the Appellate Division has appellate jurisdiction from Judgements or orders of the First Instance Division on points of law, lack of jurisdiction and procedural irregularities.

The Treaty provides the possibility for the Court to be given “such other original, appellate, human rights and other jurisdiction as will be determined by the Council at a suitable subsequent date.” To this end, the Partner States shall conclude a protocol to operationalize the extended jurisdiction.

The Court can be accessed by:

- i) **Partner States:** A Partner State against another Partner State, EAC organ or institution on the legality of any: Act, regulation, directive, decision or action that is *ultra vires*.
- ii) **Summit, Council or Partner States:** for advisory opinions.
- iii) **EAC Secretary General:** The Secretary General through Council of Ministers can refer a matter against a Partner State.
- iv) **Legal and Natural persons:** This refers to any resident in East African Community alleging Treaty infringement or challenging the lawfulness of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community.
- v) **Employees of the East African Community:** on the interpretation and application of staff rules, terms & conditions of service.
- vi) **National Courts and Tribunals for preliminary rulings on:**
 - a. Treaty interpretation.
 - b. Validity of regulations, directives, decisions, actions of the community.

REGISTRY OF THE COURT, FILLING OF DOCUMENTS, COURT SESSIONS AND CORAM

The main registry for EACJ is in Arusha with sub-registries in: Bujumbura, Dar-es- Salaam, Kampala, Kigali and Nairobi. There are on-going considerations to set up a sub-registry in the Republic of South Sudan. All documents must be filed in English and translated if

in other languages. Several EACJ sessions are held in Arusha annually. The quorum for the Court is three or five Judges. Some applications may be heard by a single Judge. The EACJ Rules of Procedure, 2013 & EACJ Arbitration Rules, 2012 apply for all Court proceedings and there is an easy-to-read Court User's Guide available for reference by Court users.

Some of the key achievements for EACJ include:

- i) The EACJ jurisprudence has developed especially in the area of the fundamental principles of the Community i.e. rule of law, good governance and human rights;
- ii) The cases filed at the EACJ have increased exponentially. Case clearance rate has increased with 88% of the cases filed at the Court having been determined and disposed of in the period 2010-2015;
- iii) The Court Users' trust and confidence in the Court has increased significantly as is evidenced by the increased filing of cases;
- iv) The Court has contributed to regional integration through the growth of jurisprudence in the region with regard to the principles enshrined in the Treaty;
- v) The Court's decisions have greatly influenced policies and practices in Partner States;
- vi) The Court has adopted the use of an electronic case management, recording and transcribing system to ensure timely dispensation of justice and reduced costs;
- vii) The Court has published its own law reports thereby making its jurisprudence readily available;
- viii) The Court has enhanced access to justice by establishing sub-registries in all Partner States and abolishing Court fees;
- ix) Continuous judicial education has frequently been undertaken and skills have been developed in areas such as arbitration; and
- x) President & the Principal Judge are now resident in Arusha.

Some of the main challenges facing the Court include the following:

- i) The service of the Judges of the Court continues to be *ad-hoc* and only the President and the Principal Judge are based in Arusha thus affecting the performance of the Court.
- ii) The *ad-hoc* nature of the services of Judges and the limitation of their tenure by either age or duration of service negatively impacts the performance of the Court.
- iii) Visibility of the Court continues to be a challenge as there is limited knowledge of the Court among citizenry, legal practitioners, and judicial officers resulting into limited use of the Court.
- iv) The Court is financially constrained.
- v) Delay in operationalizing the Court's administrative and financial autonomy.

As part of the measures to overcome the above challenges, the Court has already identified the need for Partner States to consider allowing full time services of the Judges, reviewing the tenure of the Judges and determining the permanent seat of the Court as some of the critical success factors.

The Legal and Judicial System in the East Africa Community for each Partner State is detailed in **Appendix III**.

1.3 The Legal and Judicial Systems in the East African Community

The legal and Judicial systems in the East African Community and in the individual Partner States is as detailed in **Appendix IV**

1.4 Methodology of the Strategic Plan

This Strategic Plan sets out the direction the Court will take in the next five (5) years. It spells out the vision, mission, objectives and strategies over this period.

The Strategic Plan was developed by the Judges and staff of the Court. Under the guidance of facilitators (consultants), they comprehensively deliberated on the issues and challenges facing the Court as well as the way forward. The Plan was developed in a highly participatory process involving group as well as plenary sessions. Each step in the strategic planning process was discussed in depth in small groups and consensus built at plenary. The approach also involved conducting a desk study on other Regional Courts and borrowing leading practices as appropriate. The findings of the desk study on two Regional Courts were presented during the strategy workshop. Lastly the International Framework for Court Excellence (IFCE) which is a quality management system designed to help Courts to improve on their performance was also resorted to.

2 CHAPTER TWO: ENVIRONMENTAL OUTLOOK

2.1 Political Factors

- i) The East African Community (EAC) Partner States are committed to forging closer political, economic and social ties. This means closer integration and higher interaction within the Community.
- ii) There has been an upsurge in advocacy for good governance, human rights and democracy.
- iii) There is a relatively free press in operation in the Partner States
- iv) Membership of the Community is growing with South Sudan being the latest member.
- v) Prolonged delay by the Council to extend the mandate of the Court on human rights matters.

2.2 Economic Factors

- i) There has been largely consistent economic growth within the Community.
- ii) Dependence on agriculture is still high. This is likely to remain so throughout this plan period.
- iii) Poverty levels within the Community remain high.
- iv) The combined population of the Community (approximately 160 million people) translates to high demand for products and services. This represents untapped business potential.
- v) Budgetary allocation reduction which impacts on the Court performance.
- vi) Overreliance on Partner States for funding.
- vii) Delayed disbursement of contributions by Partner States to make contributions.

2.3 Social Factors

- i) Population within the Community is approximately 160 million people and still rising. The dependency ratio is high as most citizens are youths.
- ii) There is prevalence of diseases, for instance, malaria, tuberculosis, HIV/AIDS as well as non-communicable diseases including cancer, hypertension and diabetes.
- iii) Citizens of the Partner States are more enlightened and more knowledgeable about their rights.
- iv) There is growth in internet usage including Social media and related technologies.
- v) There exists cultural variety in the Community.
- vi) Change in perception of the Court.
- vii) Increased awareness about the mandate of the Court

2.4 Technological Factors

- i) There has been general global technological advancement in all areas. This has brought about new ways of doing business. Some of the areas include:
 - a. Increased usage of internet, satellite, GPS, cell phones, TV;
 - b. Communication technology (give or exchange) e.g. magazines, DVDs /videos, level of computing;
 - c. Video conferencing, video, audio and transcribing system; and
 - d. Growth in social media, etc.
- ii) EAC countries are largely technology importers.
- iii) Cyber security threats exist.

2.5 Ecological Factors

Environmental protection has been of high priority in the EAC Partner States. There is effort to halt environmental degradation and achieve sustainable development.

2.6 Legal Factors

- i) As East Africans become more enlightened and assertive, they are demanding good governance, accountability and transparency, justice and rule of law.
- ii) Improved corporate governance is a priority issue in the Community.
- iii) Absence of a protocol to extend the Jurisdiction of the Court on human rights matters.
- iv) Variance in language and legal systems which affect Court processes.
- v) Any matters which require amendment of the Treaty may take very long due to the complex nature of the amendment process.

2.7 Strategic Plan Assumptions

The environment influences the assumptions underlying a strategic plan. The following are some of the key assumptions underlying the current Plan.

- i) Integration will continue to deepen and widen.
- ii) Volume of economic, financial, commercial, social, administrative, labour and political transactions will have a continued and increasing trend.
- iii) Increased visibility of the Court among citizens, partners and stakeholders.

- iv) The EAC Organs and Institutions, Partner States, Bar Associations, National Courts, etc. will want to benefit from a growing body of Community jurisprudence.
- v) The body of Community law comprising of the Treaty, EALA Acts, Agreements, whose interpretation and application are within the jurisdiction and mandate of EACJ will continue to grow and will form the legal basis for an increasing volume of intra-EAC interaction in all sectors.
- vi) The EAC Organs, Institutions, Partner States and citizens recognize the role of EACJ and are willing to support it to grow and take pride in the quality of its work, integrity and impartiality and will trust, respect and abide by its decisions.
- vii) The Protocol to Operationalize the Extended Jurisdiction of the EACJ on trade and investment matters as well as issues associated with development of Protocol on the Establishment of the African Monetary Union will be ratified.
- viii) EAC Partner States will honour their financial contributions to the Community.
- ix) Continued political stability of the Partner States
- x) Introduction of other languages in addition to English as language of the Court.
- xi) Various dispute resolution mechanisms in EAC Partner States will be strengthened.

3 CHAPTER THREE: VISION, MISSION AND CORE VALUES

3.1 Vision

“A world class Court dispensing quality justice for a prosperous Community”

3.2 Mission

“To contribute to Regional Integration by ensuring adherence to justice, rule of law and protection of fundamental rights and freedoms through the interpretation and application of and compliance with the East African Community Law”

3.3 Core Values

- i) Independence
- ii) Integrity
- iii) Impartiality

4 CHAPTER FOUR: STRATEGIC ANALYSIS

4.1 Strengths

- i) Established organ under the Treaty;
- ii) Functional independence;
- iii) Separation of powers between the organs;
- iv) Diverse legal systems in the region;
- v) Participation of Partner States in appointment of Judges;
- vi) Court sessions and other Court activities carried out as planned;
- vii) Experienced and skilled Judges;
- viii) Competent staff;
- ix) Diverse legal background of Judges;
- x) Electronic case management and recording system;
- xi) Establishment of sub-registries; and
- xii) President and Principal Judge being permanently resident in Arusha.

4.2 Weaknesses

- i) Understaffing of EACJ;
- ii) Gender imbalance;
- iii) Inadequate organizational structure of the Court;
- iv) Undetermined seat of the Court;
- v) Inadequate staff appraisal process;
- vi) Overreliance on a single source of funding;
- vii) Inadequate publicity of the Court;
- viii) Lack of awareness of the arbitration jurisdiction; and
- ix) Lack of adequate governance policies.

4.3 Opportunities

- i) Presence of supportive media;
- ii) Available Development Partners;
- iii) Collaborative legal fraternity (Bar Associations, EAMJA, CMJA);
- iv) Improved interactive organs and institutions of the Community (Summit, EALA, Council, Secretariat);
- v) Good relationship with national courts;
- vi) Existing jurisprudence;
- vii) Supportive Partner States;
- viii) Cooperation from National Parliaments;
- ix) Availability of universities and similar institutions;
- x) Existence of ICT platforms;
- xi) Enactment of the Administration of EACJ Act 2017; and
- xii) Potential increase in the number of Partner States.

4.4 Threats

- i) Shifting funding priorities of Development Partners;
- ii) Late remittance of subscriptions by Partner States;
- iii) Delayed legislation on Community matters by National Parliaments;
- iv) Delayed decision making process by Partner States/Council;

- v) Ad hoc nature of the services of the Court Judges;
- vi) Inadequate terms and conditions of service for Judges;
- vii) Judges serving both EACJ and Partner States Judiciaries/ Institutions;
- viii) Limited jurisdiction;
- ix) Erosion of the jurisdiction of EACJ by introduction of parallel dispute resolutions mechanisms in some Protocols;
- x) Lack of awareness of Preliminary Reference Procedures by national courts;
- xi) Lack of prompt enforcement mechanisms; and
- xii) Delay in amendment of the Treaty to accommodate necessary changes.

4.5 Stakeholder Analysis

The Court has several key stakeholders. They have various stakes in the Court as outlined below:

- i) **Partner States:** Litigation, budget, jurisprudence, Court publicity;
- ii) **The Summit:** Budget, litigation, policy, attitude, tenure, appointment, permanent seat, overlapping judicial service, separation of powers;
- iii) **The Council:** Budget, recruitment, litigation, policy, resource mobilization, attitude, Community policy, tenure, terms and conditions, separation of powers;
- iv) **The Secretariat:** Budget, recruitment, litigation, policy, resource mobilization, attitude, separation of powers;
- v) **The EALA:** Inter-organ relationship, Budget, attitude, Community law and policy, Court publicity, separation of powers;
- vi) **National Courts:** Jurisprudence, case stated, execution of judgments, service of process, sub-registries, overlapping judicial service, judicial education;
- vii) **Bar Associations/Law Societies:** Litigation, jurisprudence, *amicus curiae*, judicial education, and Court publicity;
- viii) **Law Faculties/Schools:** Litigation, jurisprudence, *amicus curiae*, judicial education, Court publicity;
- ix) **Development Partners:** Resource mobilization, Court publicity, training and capacity building;
- x) **Public/Private Sector/Civil Society:** Arbitration jurisdiction, court publicity, litigation, resource mobilization, *amicus curiae*;
- xi) **International and Regional Courts:** Jurisprudence, training, benchmarking and Court publicity;

- xii) **Litigants- Legal and Natural Persons:** Jurisprudence, litigation, Court publicity;
- xiii) **EAC Employees:** Litigation, terms and conditions of service, jurisprudence;
- xiv) **Media:** publicity, news, visibility, feedback mechanisms;
- xv) **EAC Institutions with dispute settlement mandate such as EAC Competition Authority; Customs Management Authority and Committee on Trade Remedies:** Litigation and enforcement; and
- xvi) **Citizens and Residents of EAC:** Raise awareness and publicity.

5 CHAPTER FIVE: PAST PERFORMANCE

In the previous Strategic Plan (2010-2015), four strategic issues were identified for action: These were:

- i) Design of the Court under the Treaty;
- ii) Appreciation of the Court;
- iii) Visibility of the Court; and
- iv) Capacity of the Court.

5.1 Achievements of the Planned Activities (2010- 2015)

Activities and programs were identified that were to be carried out to address each of the strategic issues. Most of the activities for issues one (i) and two (ii) were partially achieved. The major reason for this was that full achievement required action from institutions outside the Court. Since the planned activities were and are still important for improved performance of the Court, they will be carried forward to the next plan period. The activities for strategic issues three (iii) and four (iv) were largely achieved. Where there was partial or non-achievement, the major reason was lack of funds (limited budget). These activities will be carried forward to the next plan period.

5.2 Achieved Activities outside the Strategic Plan (2010-2015)

Several important achievements were made even though the corresponding activities had not been included in the strategic plan. These achievements contributed to improved performance of the Court.

- i) There was increased investment in information technology. This enabled the rollout of the Case Management System with the purpose of making EACJ a more efficient Court.
- ii) A Court friendly User's Guide was developed.

Details of these achievements are given in ***Appendix III***

6 CHAPTER SIX: STRATEGIC ISSUES AND OBJECTIVES

After conducting a comprehensive strategic analysis for the Court, six (6) strategic issues were identified as follows:

- i) Institutionalisation of the Court;
- ii) Design of the Court under the Treaty;
- iii) Appreciation of the Court;
- iv) Visibility of the Court;
- v) Capacity of the Court; and
- vi) Information Communication Technology (ICT).

6.1 Institutionalisation of the Court

Given that the Court operates in a political community, it is paramount that it develops a regularized system for policy making and thus the need for institutionalization. Institutionalisation of the Court is important for the autonomy, independence and timely dispensation of justice.

The consequences of not addressing this issue include:

- i) Compromise of the autonomy of the Court;
- ii) The Judges of the Court by continuing to serve on *ad-hoc* basis will impact negatively on the timely dispensation of justice;
- iii) Lack of a permanent seat of the Court exacerbate the perceived lack of independence of the Court; and
- iv) It will continue reinforcing the *ad-hoc* nature of services of Judges of the Court.

Strategic Objectives

- i) To end the transitional life of the Court.
- ii) To strengthen the institutional independence of the Court.

6.2 Design of the Court under the Treaty

The jurisdiction of the Court as specified under Article 27 (2) of the Treaty has been limited in its application since its inception. Yet the Treaty provides for operationalization of this jurisdiction. Similarly, Article 140 (4) provides that the Court shall be fully operational when the Council of Ministers so decide. These two issues raise a number of strategic challenges, notably:

- i) Limited jurisdiction and ad hoc nature of service of the Judges;
- ii) Only the President and Principal Judge will remain full time resident in Arusha;
- iii) Inability to hold sessions in the absence of the President and Vice President, or the Principal Judge and Deputy Principal Judge, in the Appellate and First Instance Divisions respectively;

- iv) The Treaty limits the number of Judges who can be appointed to serve at EACJ. For instance upon the admission of Republic of South Sudan, only one Judge could be appointed to the First Instance Division. Republic of South Sudan lacks representation at the Appellate Division; and
- v) Retirement age for Judges limited to 70 years. Suggestion would be to complete their seven year term regardless of their age for consistency and stability. Currently the Treaty limits the term for Judges as 7 years with no room for renewal and promotion.

The consequences of not addressing this issue include:

- i) Lack of timeliness in delivery of Judgements as required by the Treaty; and
- ii) The Court continuing being housed in the same building with the Secretariat who are potential litigants in the Court create a perception that there is lack of separation of powers.

Strategic Objectives

- i) To extend the Court's jurisdiction to other original, appellate and human rights matters as envisaged in the Treaty
- ii) To improve the design of the Court for optimum performance

6.3 Appreciation of the Court

Since the East African Court of Justice was established, the EAC Policy makers and stakeholders seem not to, appreciate its role and place in the EAC institutional structure exemplified by non-resort to the Court's arbitral jurisdiction, creation of parallel dispute resolution mechanisms, inadequate terms and conditions of the services for the Judges and staff and the *ad-hoc* nature of the Court.

Consequences of not addressing this issue include:

- i) The Court not being able to optimally discharge its mandate in the integration process;
- ii) Possible non-compliance with the Court decision;
- iii) Limiting access to the Court by EA Citizens; and
- iv) Risk of fragmenting Community jurisprudence.

Strategic Objective

- i) To actively engage EAC Policy organs and other stakeholders on the role and place of the Court in the EAC integration agenda.

6.4 Visibility of the Court

The Court is not visible enough both physically and functionally. Currently the Court does not have a Permanent Seat, has minimal media coverage and lacks a full-fledged communications department.

Functionally, the stakeholders and other Court users still do not know sufficiently this regional mechanism of dispute resolution. Many of them do not know the jurisdiction and procedures of the Court.

Consequences of not addressing this issue include:

- i) Limited access to the Court by its users leading to its underutilisation; and
- ii) Slow down the Court's contribution towards integration process

Strategic Objective

- i) To enhance the Court's visibility and make its mandate better known to its stakeholders and other Court users.

6.5 Capacity of the Court

For the Court to deliver on its mandate, it must have adequate institutional capacity. It will require a sufficient complement of human, financial and physical resources. Specifically, concerns surrounding this strategic issue include:

- i) Inadequate organizational structure of the Court;
- ii) Inadequate human and financial resources;
- iii) Continuous human resource development;
- iv) Autonomy not fully realised; and
- v) Limitation of number of Judges under Article 24 (2).

Consequences of not addressing this strategic issue include the following:

- i) The Court may not be able to deliver on its mandate and achieve its objectives;
- ii) Risk of Court users, investors and other stakeholders failing to appreciate the Court in the Region; and
- iii) Delayed output and creation of inefficiencies.

Strategic Objective

- i) To enhance institutional capacity of the Court.

6.6 Information Communication Technology (ICT)

The Court will use ICT as an enabler in its duty of dispensing quality justice to the citizens and residents of the EAC as a road map to becoming an efficient Court. The following concerns will be addressed:

- i) Continuous ICT capacity building of Judges and staff;
- ii) Inadequate use of modern systems;
- iii) Ad-hoc implementation of ICT projects due to lack of an ICT master plan for the EACJ;
- iv) Lack of mainstreaming of existing ICT systems;
- v) Lack of an ICT department to spearhead ICT projects of EACJ; and
- vi) Lack of a modern records management system.

Consequences of not addressing this strategic issue include the following:

- i) Risk of the Court not delivering its mission of being a world class Court;
- ii) The Court may not be able to bring justice closer to all citizens and residents of EAC; and
- iii) Risk of the Court inability to solve 21st century issues of the current information era.

Strategic Objectives

- i) To enhance ICT as a driving tool for the Courts operations (Court processes);
- ii) To improve the administration, accounting, human resources and security function of the Court; and
- iii) To drive the change from manual systems to digital system across EACJ.

7 CHAPTER SEVEN: OVERALL STRATEGY

The core business of the Court is dispensation of quality justice. Specifically it will involve:

- i) Settlement of disputes;
- ii) Provision of advisory opinions;
- iii) Provision of preliminary rulings; and
- iv) Arbitration.

The work of the Court is greatly influenced and guided by Judges and the Registrar. In pursuit of service excellence the Court will endeavour to:

- i) Work towards the establishment of the permanent seat of the Court;
- ii) Continue the consultations with the relevant EAC organs and other stakeholders so that the ad hoc nature of the services of the Court's Judges is reviewed;
- iii) Enhance the capacity of the sub-registries in the Partner States;
- iv) Hold Court sessions and other outreach programmes in the Partner States as a matter of policy;
- v) Have the extended jurisdiction of the Court envisaged under Article 27(2) of the Treaty determined and operationalized; and
- vi) Operationalize the East African Court of Justice Administration Act when assented to.

The Court will organize its operations to provide excellent support to the Judges. It will endeavour to enhance its capacity to provide such support by:

- i) Strengthening performance management;
- ii) Undertaking increased relevant human resources development;
- iii) Establish a resource mobilization strategy;
- iv) Strengthen ICT as a driving force for service provision; and
- v) Provide a safe and conducive work environment.

8 CHAPTER EIGHT: IMPLEMENTATION PLAN

The Court shall implement this strategic plan by undertaking various activities.

8.1 Implementation Matrix

The Court's implementation matrix indicates the actions to be undertaken, by whom, when and with what expected results. It represents a commitment to implement the strategic plan. The Court's implementation matrix is presented in **Appendix 1**.

8.2 Annual Work Plans

The Court's annual work plan provides specific details about what will be done during a given year. It is more specific and more detailed than the implementation matrix. In implementing the five-year strategic plan, the Court will have to develop five (5) annual work plans.

8.3 Budget

The Court will develop an annual budget which will be linked to the strategic plan and the annual work plan. The annual work plan should ideally be completed before the budget for the year is drawn up.

8.4 Communicating the Plan

This strategic plan shall be communicated to all the Judges and the Court staff. Through such communication, the Judges and the staff of the Court will understand what is expected of them.

8.5 Plan Monitoring and Evaluation

The Court will continue to monitor the implementation of this strategic plan. Corrective action will be taken on any deviations from the plan. The implementation progress will be reported at the regular management meetings at the Court.

9 CONCLUSION

This Strategic Plan 2018 – 2023 will serve as a blueprint for the transformation of the EACJ. It will require the alignment of EACJ’s human and physical resources to meet the goals identified in it.

As such, EACJ will have to be adaptable and resilient in the face of a changing external environment. At the same time, it is important that the Court be able to strike a balance between the aspects that it must adapt and evolve, and the aspects that make it truly distinctive. Finding the balance and making the right measure of adaptation and gauging the “market” impact will take time, learning and re-calibration. Therefore, this Strategic Plan should be treated as a living document, subject to course corrections along the way.

In order to ensure successful implementation of this strategic plan, the collective effort of all Judges and staff of the Court will be required. The President and Registrar of the Court will play a leading role in the implementation efforts. The success of this strategic plan is equally dependent on all working together and supporting each other and therefore the President and Registrar will have to rally everybody in moving the Court forward. They will need to effectively manage the interface between the Court and its key stakeholders.

The Court’s strategic plan will be monitored, reviewed and revised from time to time. This will ensure the plan remains relevant given the dynamism of the environment within which the Court is operational while maintaining the Court’s dedication to the development of EAC through support of the integration process, promotion of rule of law and development of regional jurisprudence.

APPENDICES

APPENDIX I: Implementation Matrix I:

Strategic Issue One (1): Institutionalisation of the Court

Objective One (1): To end the transitional status of the Court

Objective Two (2): To strengthen the institutional independence of the Court

Strategy	Activities	Expected Outputs/ Outcomes	Performance Indicators	Timelines	Responsibility
1. Engagement with the Council and Summit to create a permanent Court	<ul style="list-style-type: none"> i) Bring up the matter to the attention of the Council and Summit ii) Engage the Council and Summit for permanent services of the Judges. 	<ul style="list-style-type: none"> i) Court becomes fully operational ii) Services of Judges become permanent 	<ul style="list-style-type: none"> i) Continuous sitting of the Court ii) Permanent/ full time presence of the Judges 	2018-2023	President & Registrar
2. Establishment of the permanent seat of the Court	<ul style="list-style-type: none"> i) Bring up the matter to the attention of the Council and Summit ii) Engage the Partner States on the need to end the transitional status of the Court 	Permanent seat of the Court determined	<ul style="list-style-type: none"> i) Council Report ii) Summit Communique 	2018-2023	President & Registrar
3. Recognition of the Office of the Principal Judge as established by the Treaty	<ul style="list-style-type: none"> i) Engage the Council and other stakeholders in the approval of a Cost Centre ii) Creation of a Cost Centre for the Office of the Principal Judge 		<ul style="list-style-type: none"> i) Participation of the Principal Judge in the budget making process ii) Streamlined budgeting process 	2018-2019	President & Registrar

Strategic Issue Two (2): Design of the Court under the Treaty

Objective One (1): To extend the Court's jurisdiction to other Original, Appellate and Human Rights Matters as envisaged in the Treaty

Objective Two (2): To improve the design of the Court for optimum performance

Strategic Issue Three (3): Appreciation of the Court

Objective: To actively engage EAC Policy Organs and other stakeholders on the role and place of the Court in the EAC integration agenda

Strategy	Activities	Expected Outputs/ Outcomes	Performance Indicators	Timelines	Responsibility
Continue engaging the EAC Policy Organs and other stakeholders on the role and place of the Court in the EAC integration agenda	i) Courtesy calls to the EAC Heads of State, Chief Justices, Ministers of EAC Affairs, Permanent Secretaries, Attorneys General, etc.	Improved understanding and perception of the EAC policy makers and Stakeholders on the role and place of the Court in the EAC Integration Agenda.	i) Number of Council decisions in favour of the Court ii) Council Reports showing positive decisions in favour of the Court iii) Survey reports on Stakeholders understanding and perception on: <ul style="list-style-type: none"> - Role of Court in EAC Integration agenda - Efficiency of Court in delivery of Justice 	2018–2023	President & Registrar
	ii) Hold round table discussions, workshops, retreats, seminars with various stakeholders	Increase quality advocacy of the Court	Number of round table discussions, workshops, retreats, seminars held	2018-2023	President/ Registrar

Strategic Issue Four (4): Visibility of the Court

Objective: To enhance the Court’s visibility and make its mandate better known to its stakeholders and other Court users

Strategy	Activities	Expected Outputs/ Outcomes	Performance Indicators	Timelines	Responsibility
To hold Court sessions in the Partner States	i) Conduct Court sessions in the Partner States		i) Number of Court sessions held	2018-2023	President & Registrar
	ii) Launch sub-registry in the Republic of South Sudan	Bringing justice closer to the residents of the Republic of South Sudan	i) A functional sub-registry ii) A report on the activities of the sub-registry	2018-2019	Registrar
To enhance outreach programs to stakeholders	i) Organize sensitization and awareness fora	Raised awareness	i) Number of fora held ii) Increased use of the Court	2018-2023	Registrar
	ii) Organize annual EACJ day	Raised awareness of the Court	i) Number of EACJ days held ii) Increased use of the Court	2018-2023	Registrar
	iii) Produce and disseminate EACJ Information and promotional materials	Increased knowledge about the Court	i) Number of informational and promotional materials produced and disseminated ii) Increased use of the Court	2018-2023	Registrar
	iv) Revamp EACJ Web portal and actively engage social media plat-forms	Increased knowledge and interaction with the Court	i) A revamped web portal ii) Number of followers on social media	2018-2020	Registrar

Strategic Issue Five (5):Capacity of the Court

Objective: To enhance institutional capacity of the Court

Strategy	Activities	Expected Outputs/ Outcomes	Performance Indicators	Timelines	Responsibility
Operationalize the Administration of EACJ Act 2017	i) Engage the Summit to assent to the Act	i) Operationalize the F&A autonomy granted	i) Act is assented to	2018-2019	President & Registrar
	ii) Establishment of the structures under the Act	ii) Structures set up	ii) Structures are put in place	2018-2021	President & Registrar
Revive terms and conditions for staff	i) Preparation of a concept paper proposal to be submitted to the Council	Concept paper to be developed after the report of the ad-hoc service commission report on workload analysis Concept paper approved	Council report	2018-2020	Registrar
	ii) Engage the Council		Conditions of service for staff are reviewed	2018-2021	Registrar
Mobilize additional resources	i) Draft proposals for funding	i) Proposal in place	i) Proposal is developed	2018-2019	Registrar
	ii) Submit the proposal to Development Partners	ii) Proposal approved and adopted	ii) Resources are granted	2018-2023	Registrar
	iii) Establish a Trust Fund for the Court	iii) Concept Paper Note	iii) Established Trust fund	2018-2021	Registrar

Strategic Issue Six (6): Information Communication Technology

Objective One (1): To enhance ICT as a driving force for the Court’s operations (Court processes)

Objective Two (2): To improve the administration, accounting, human resources and security functions of the Court

Objective Three (3): To drive the change from manual systems to digital systems across EACJ

Strategy	Activities	Expected Outputs/ Outcomes	Performance Indicators	Timelines	Responsibility
Transform EACJ Library into an Electronic Information Resource Centre	Conduct feasibility study on development of e-resource centre	Feasibility report developed	Feasibility report	2018 - 2019	Registrar
	Procure and install the required equipment and software	Equipment and software procured and installed	E-Library operational and accessible	2019 -2021	
Develop an ICT Master Plan	i) Carry out a feasibility study	Feasibility report developed	Feasibility study Survey Report	2018-2019	President & Registrar
	ii) Draft and approval of the ICT Master Plan	ICT master plan drafted and approved	Report of the ICT plan	2018-2019	President & Registrar
Implementation of the ICT Plan	i) Procure and install the required equipment and software	Equipment and software procured and installed	Utilisation of ICT equipment	2019-2023	President & Registrar
	ii) Acquire additional ICT Staff	New ICT staff recruited	Staff on Board	2019-2023	President & Registrar
	iii) Undertake capacity building for staff and Judges in ICT	EACJ Judges and staff trained in ICT	Improved usage of ICT system in EACJ	2018-2023	President & Registrar

APPENDIX II: BUDGET IMPLEMENTATION MATRIX II:

STRATEGIC ISSUE ONE (1): INSTITUTIONALISATION OF THE COURT

Strategic Objectives

1. To end the transitional status of the Court
2. To strengthen the institutional independence of the Court

Strategies:

- i) Engagement with the Council and Summit to create a permanent Court
- ii) Establishment of the permanent seat of the Court
- iii) Recognition of the Office of the Principal Judge as established by the Treaty

Strategy	Activities	Baseline	Planned Budget USD					Responsibility
		2017/18	FY1	FY2	FY3	FY4	FY5	
Engagement with the Council and Summit to create a permanent Court	Bring up the matter to the attention of the Council and Summit							President & Registrar
	Engage the Council and Summit for permanency services of the Judges		9,300	9,900	9,900	9,900	9,900	
Establishment of the	Bring up the matter to the attention of		23,400	24,600	24,600	24,600	24,600	

permanent seat of the Court	the Council and Summit							
	Engage the Partner States on the need to end the transitional status of the Court							
Recognition of the Office of the Principal Judge as established by the Treaty	Engage the Council and other stakeholders in the approval of a cost centre		NIL	24,600	24,600	NIL	NIL	
	Creation of a cost centre for the Office of the Principal Judge		NIL	9,900	9,900			
	Sub-total USD		32,700	69,000	69,000	34,500	34,500	

STRATEGIC ISSUE TWO (2): DESIGN OF THE COURT UNDER THE TREATY

Objective One:

3. To extend the Court’s jurisdiction to other Original, Appellate and Human Rights Matters as envisaged in the Treaty
4. To improve the design of the Court for optimum performance

Strategies:

- i) Participate in the ongoing EAC process for extending the jurisdiction of the Court
- ii) Work towards enhancing the Court through participation in the Process of review and amendment of the treaty

Strategy	Activities	Baseline	Planned Budget USD					Responsibility
			2017/18	FY1	FY2	FY3	FY4	
Participate in the ongoing EAC process for extending the jurisdiction of the Court	Participate and engage the Partner States in amendment of the treaty	N/A	35,000	45,000	50,000	50,000	50,000	President & Registrar
Work towards enhancing the Court through participation in the Process of review and amendment	Participate and engage the Partner States in the amendment of the Treaty	N/A	35,000	45,000	45,000	50,000	50,000	

of the treaty								
	Sub-total USD		70,000	90,000	95,000	100,000	100,000	

STRATEGIC ISSUE THREE (3): APPRECIATION OF THE COURT

Strategic Objective:

- To actively engage EAC Policy organs and other stakeholders on the role and place of the Court in the EAC integration agenda

Strategies:

Continue engaging the EAC Policy Organs and other stakeholders on the role and place of the Court in the EAC integration agenda

Strategy	Activities	Baseline	Planned Budgets USD					Responsibility
		2017/18	FY1	FY2	FY3	FY4	FY5	
Continue engaging the EAC Policy Organs and other stakeholders on the role and place of the Court in the EAC integration agenda	Courtesy calls to the EAC Heads of State, Chief Justices, Ministers of EAC Affairs, Permanent Secretaries, Attorneys General, etc.		243,380	173,140	173,140	190,410	209,451	President & Registrar
	Hold round table discussions, workshops, retreats, seminars with various stakeholders							President & Registrar
	Sub- total (242,380	173,140	173,140	190,410	209,451	

	USD)							
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STRATEGIC ISSUE FOUR (4): VISIBILITY OF THE COURT

Strategic Objective:

6. **To enhance the Court's visibility and make its mandate better known to its stakeholders and other Court users**

Strategies

- i) Hold Court sessions in the Partner States
- ii) Enhance outreach programs to stakeholder

Strategy	Activities	Baseline	Planned Budgets USD					Responsibility
		2017/18	FY1	FY2	FY3	FY4	FY5	
Hold Court sessions in the Partner States	Conduct Court sessions in the Partner States		793,900	1,257,400	1,257,400	1,383,140	1,521,454	President & Registrar
	Launch sub-registry in the Republic of South Sudan		35,700	78,000	14,400	16,416	18,714	Registrar
Enhance outreach programs to stakeholder	Organize sensitization and awareness fora		158,000	200,000	250,000	300,000	400,000	
	Organize		364,700	364,700	364,700	364,700	364,700	

	annual EACJ day							
	Produce and disseminate EACJ Information and promotional materials		50,000	60,000	60,000	60,000	60,000	
	Revamp EACJ Web portal and actively engage social media plat-forms		10,000	10,000	10,000	10,000	10,000	
	Sub-total – USD		1,412,300	1,970,100	1,956,500	2,134,256	2,374,868	

STRATEGIC ISSUE FIVE (5): CAPACITY OF THE COURT

Strategic Objective:

7. To enhance institutional capacity of the Court

Strategies:

- i) Operationalize the Administration of EACJ Act 2017
- ii) Revive terms and conditions for staff
- iii) Mobilize additional resources
- iv) Improve the administration, accounting, human resources and security functions of the Court

Strategy	Activities	Baseline	Planned Budgets					Responsibility
		2017/18	USD					
			FY1	FY2	FY3	FY4	FY5	
Operationalize the Administration of EACJ Act 2017	Engage the Summit to assent to the Act	N/A	23,400	Nil	Nil	Nil	Nil	President & Registrar
	Establishment of the structures under the Act	N/A	9,900	10,890	11,979	13,176	14,494	Registrar Registrar
Revive terms and conditions for staff	Preparation of a concept paper proposal to be submitted to the Council	N/A	20,000	40,000	Nil	Nil	Nil	Registrar
	Engage the Council	N/A	35,000	45,000	45,000	NIL	NIL	Registrar
Mobilize additional resources	Draft proposals for funding & engage Development Partners	N/A	32,000	NIL	NIL	NIL	NIL	President & Registrar
	Submit the proposal to	N/A	35,000	45,000	50,000	60,000	70,000	Registrar

	Development partners							
	Establish and operationalize a Court Trust Fund	N/A	20,000	70,000	50,000	100,000	100,000	Registrar
	Sub-total – USD		175,300	210,890	156,979	173,176	184,494	

STRATEGIC ISSUE SIX (6): INFORMATION COMMUNICATION TECHNOLOGY

Strategic Objectives:

8. **To enhance ICT as a driving force for the Court's operations (Court processes)**

9. **To drive the change from manual systems to digital systems across EACJ**

Strategies:

i) Transform EACJ Library into an Electronic Information Resource Centre

ii) Develop an ICT Master Plan

iii) Implementation of the ICT Plan

Strategy	ACTIVITIES	Baseline	Planned Budgets USD					Responsibility
		2017/18	FY1	FY2	FY3	FY4	FY5	
Transform EACJ Library into an Electronic Information Resource Centre	Develop and maintain integrated library management systems	N/A	Nil	150,000	20,000	20,000	20,000	President & Registrar
	Conduct feasibility and benchmarking studies on development of e-resource centre	N/A	Nil	30,000	10,000	Nil	Nil	Registrar
	Establish and Maintain E-library Centre	N/A	20,000	80,000	30,000	30,000	30,000	President & Registrar
	Specialized training for Library staff	N/A	Nil	20,000	10,000	10,000	10,000	

	and Judges							
Develop an ICT Master Plan	Carry out a feasibility study		10,000	Nil	Nil	Nil	Nil	President & Registrar
	Draft and approval of the ICT Master Plan		50,000	Nil	Nil	Nil	Nil	President & Registrar
Implementation of the ICT Plan	Procure and install the required equipment and software		Nil	250,000	250,000	250,000	250,000	President & Registrar
	Acquire additional ICT Staff		Nil	50,000	75,000	75,000	75,000	President & Registrar
	Undertake capacity building for staff and Judges in ICT		15,000	30,000	30,000	30,000	30,000	President & Registrar
	Sub-total (USD)		95,000	610,000	425,000	415,000	415,000	

SUMMARY OF PROJECTED COSTS

STRATEGIC ISSUES	Baseline	Planned Total Budget USD					Responsibility
	2017/18	FY1	FY2	FY3	FY4	FY5	
Institutionalisation of The Court		32,700	69,000	69,000	34,500	34,500	President & Registrar
Design of The Court Under The Treaty		70,000	90,000	95,000	100,000	100,000	President & Registrar
Appreciation of The Court		242,380	173,140	173,140	190,410	209,451	President & Registrar
Visibility of The Court		1,412,300	1,970,100	1,956,500	2,134,256	2,374,868	President & Registrar
Capacity of The Court		175,300	210,890	156,979	173,176	184,494	President & Registrar
Information Communication Technology		95,000	610,000	425,000	415,000	415,000	President & Registrar
Grand Total USD' Million		2,027,680	3,123,130	2,875,619	3,047,342	3,318,313	

APPENDIX III: Past Performance

Review of Performance of the 2010–2015 Strategic Review

Under Article 9 of the Treaty Establishing the East African Community, the East African Court of Justice, was established as the judicial arm of the Community. The Court has jurisdiction over the interpretation and application of the Treaty, provided that the Courts jurisdiction to interpret the Treaty does not include the application of any such interpretation to jurisdiction conferred by the Treaty on Organs of Partner States.

In 2010 the Court came up with a five (5) year Strategic Plan, 2010 – 2015 that would guide its steps towards its current and future growth. Today, the Honourable Judges and the Staff carry out the performance evaluation of the Court in the implementation of the Strategic Plan.

Issue 1: Design of the Court under the Treaty				
Objective 1: To implement all the relevant provisions of the Treaty especially Article 27 (2) and 140 (4) including the inclusion of necessary Protocols				
Strategy	Action	Achieved /Partially Not Achieved	Reasons for Partially/Not Achieved	Recommendations
Participate in the ongoing EAC process for extending jurisdiction of the Court and for concluding the terms and conditions of service for the	1) Bring up the matter to the attention of the Secretary General for onward transmission to and consideration and decision of relevant organs of the Community.	Achieved. Terms and conditions of services for Judges and Staff were improved. Retainer allowances for Judges was achieved, per diem rates for Judges were reviewed and raised.		The Court leadership should advocate for more increase retainer allowance for non-resident Judges be carried forward in the next Strategy. To be carried forward to the next Strategic Plan.

Judges.				
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Objective 2: To rationalize the design of the Court under the Treaty (Review/Amend)				
Strategy	Action	Achieved /Partially Not Achieved	Reasons for Partially/Not Achieved	Recommendations
Participate in the on-going EAC process of the review and amendments of the Treaty so that apparent conflicts and contradictions affecting the Court are resolved.	Appropriate involvement of the Court in the process	Not Achieved	The Court does not own the process of amendment of the Treaty and is usually not invited in meetings on amendment of the Treaty.	The Registrar should continue to follow with the Secretary General on this process and periodically update Judges and Staff. To be carried forward to the next Strategic Plan.

Issue 2: Appreciation of the Court				
Objective 1: Proactively influence a positive shift in mind-set of EAC Policy Organs and other stakeholders toward the role of the Court				
Strategy	Action	Achieved/Partially Not Achieved	Reasons for Partially/Not Achieved	Recommendations
1.Dialogue with EAC Policy Organs on the place and role of the EACJ in the EAC institutional structure	1) Involve the Organs in some EACJ activities at least once a year.	Partially achieved	Same as above.	To be carried forward in the next Strategic Plan.
	2) Organize retreats, seminars, meetings and workshops with various stakeholders at least once a year in each Partner States.	Partially achieved	Same as above.	To be carried forward in the next Strategic Plan.
	3) Engage relevant stakeholders against the establishment of parallel dispute resolution mechanisms.	Partially achieved	Same as above.	To be carried forward in the next Strategic Plan.

Issue 3: Visibility of the Court				
Objective 1: To make the Court visible and indispensable in matters related the discharge of the mandate				
Strategy	Action	Achieved /Partially Not Achieved	Reasons for Partially/Not Achieved	Recommendations

Raise the profile of the Court	1) Organize an annual EACJ Day	Not Achieved	The Court lacked sensitization budget and a fully-fledged communication department	The Court to consider adequate funding on these activities
	2) Organize Sensitization workshops	Partially achieved: On average of 2 workshops were organized in each Partner State	Limited Budget	To be carried forward to the next strategic plan
	3) Enhance awareness of the Court.	Same as in the (ii) above	Limited Budget	To be carried forward to the next strategic plan
	4) Organize Court's Meetings and Sessions in various Partner States	Partially achieved. It has only been done in two (2) Partner States once	Self-limitation. No external factors involved.	To be carried forward
	5) Establish Sub-registries in Partner States	Partially Achieved	Limited Budget	To be carried forward

Issue 4: Capacity of the Court				
Objective 1: To enhance capacity of the Court				
Strategy	Action	Achieved /Partially Not Achieved	Reasons for Partially/Not Achieved	Recommendations
1) Review organizational Structure of the Court	1) Create the organizational structure of the Court. 2) Submit to EACJ Finance and Administration Committee for consideration and onward transmission to the Court Plenary for adoption 3) Identify activities to be funded.	Fully Achieved Achieved	The process is not yet finalized Limited Budget The Court had no financial and administrative autonomy	Should be carried forward by following up with the EAC Secretariat and the EAC Service Commission. Should be carried forward. Ad hoc Service Commission appointed to carry out job evaluation and analysis
2) Mobilize Resources	1) Draft proposals for funding 2) Submit the proposals to development partners	Partially achieved Above	The Court did not receive sufficient funds	To be carried forward
3) Acquire additional staff	1) Identify staffing gaps 2) Draft proposals for additional positions 3) Present proposals to Council for approval. 4) Present request for opening up the existing positions 5) Engage required staff	Partially achieved As same above	Slow process of approval of Institutional Review by the Council and delayed Establishment of EAC Service Commission Delayed approval of the EACJ Financial and Administrative Autonomy	To be carried forward
4) Carry out skill development	1) Carry out training needs assessment 2) Conduct training 3) Team building	Partially achieved	Limited budget and staffing	<u>To be carried forward</u>

5) Improve Staff Appraisal	1) Review the staff appraisal form 2) Organize a discussion session on the appraisal process	Partially achieved	Review of the work appraisal form has been the work of the EAC Secretariat and the HR department is the custodian of this document and its review is entrusted to it.	To be carried forward The Court has been granted F&A autonomy
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Achievements outside the Planned Activities in the 2010-2015 EACJ Strategic Plan

Achievement	Activities	Recommendations /Way Forward
There was increased investment in information technology. This enabled the rollout of the Case Management System with the purpose of making EACJ a more efficient Court	More IT Equipment was acquired. Upgrading of software of Case Management Training of users.	To be carried forward to the next Strategic Plan.
Court friendly Users Guide Prepared	The Court hired an expert to develop the user guide The Court received financial support from development partners in printing of the user guides	More copies should be printed The Court should seek for additional financial support in printing of the user guides

APPENDIX IV : The Legal and Judicial System in the East Africa Community

As per Article 23(1) of the EAC Treaty, the EACJ is a judicial body which shall ensure adherence to law in the interpretation and application of and compliance with the Treaty. EACJ therefore follows and applies Community law. The sources of the law are:- the EAC Treaty, the various Protocols, legislation enacted by the East African Legislative Assembly and such subsidiary laws like the EAC Staff Rules & Regulations and the EACJ Rules of Procedure. Other sources of law include the decisions of the EACJ and international law. Under Article 34 of the Treaty, when a national court/tribunal is faced with a question requiring interpretation/application of the Treaty or the validity of a regulation, directives, decisions or actions of the community, it is expected to request for a preliminary ruling from the EACJ on the question. In that respect it is to be noted that under Article 33(2) of the Treaty, decisions of the Court on interpretation and application of the Treaty has precedence over decisions of national courts on similar matters. Lastly, Article 44 of the Treaty provides for judgments of EACJ which impose a pecuniary obligation on a person are to be enforced through the national courts of the Partner States.

Burundi

Burundi adopted the civil law system following the example of the Belgians who were their former colonial masters. The State passes laws and Courts play fundamental role in the administration of justice. The judicial system is organized through the Code of Organization and Judicial Competence of 17 March 2005. The independence of the judiciary is guaranteed by the Constitution, which separates the judiciary, the executive and legislative body. There are formal and informal mechanisms of conflicts management provided under the Code.

At the **hills level**, there are the Courts of Hills “intaheyokumuginai” in which elders “abashingantahe” and elected people on the hills, comprise the bench; the current municipal law has conferred upon them power to reconcile the parties. However, they do not have the right to impose punishments.

At the **community level**, there are the “Courts of Residence” or Magistrate Courts “Tribunal de Residence” which handle both criminal and civil cases. The Court of residence has criminal jurisdiction to impose jail sentences for up to 2 years, and in its civil jurisdiction, a fine of up to 1,000,000 Burundi Francs. It also has jurisdiction over land matters and matters relating to evictions.

At the **province level**, there are county courts: Tribunaux de Grande Instance, which are then followed by four Courts of Appeal based at Bujumbura, Ngozi, Gitega and Bururi. The Supreme Court stands at

the apex of judicial authority, and has both original and appellate jurisdiction over civil and criminal matters. The Constitutional Court is a key specialized court that presides over matters of a constitutional nature and decides on issues relating to human rights violations. The Constitutional Court together with the Supreme Court, constitute the High Court of Justice, which has competence to try a sitting president and other senior members of the government of high treason.

There are also specialized courts which include commercial, administrative, labour, court martial, the court for lands and other assets.

Below is a summary of the Burundi Court System which is divided into ordinary and specialized courts as shown here below:

ORDINARY COURTS

- i. The Supreme Court** - It is the highest judicial body handling original jurisdiction on administrative and penal matters, and appeals. It is divided into administrative chamber, judicial chamber and annulment chamber.
- ii. The Courts of Appeal** - There are four (4) Courts of Appeal. They have Appellate jurisdiction on appeals from Provincial Courts and original jurisdiction on civil and penal matters.
- iii. The Provincial Courts** – There is a Court in each Province with both civil and criminal jurisdiction. It handles appeals from Primary Courts and has original jurisdiction on civil contracts or any other case. These courts are subordinates to the Court of Appeal.
- iv. The Primary Courts** – Each Commune has one. It exercises both criminal and civil jurisdiction. They can pass a sentence of two (2) years under the criminal law jurisdiction and in civil jurisdiction they can impose a fine of one (1) million Burundi Francs

SPECIALIZED COURTS

- i. The Constitutional Court** – deals with constitutional matters
- ii. Special Court on Lands and other Assets** - It has jurisdiction over appeals against decisions of the National Commission on lands and other assets.
- iii. The Anti-Corruption Court** - It has jurisdiction on cases concerning corruption

- iv. The Appellate Court Martial**-It handles appeals from the First Instance Court Martial and has original jurisdiction against the military personnel on disciplinary and criminal matters. Appeals go to the Supreme Court.
- v. The Administrative Court** - These are three (3) and have jurisdiction over disputes between employer/employee in public sector. They also have administrative authority and jurisdiction on matters of abuse of power, taxes and disciplinary issues. Finally, they have jurisdiction over disputes between public and private sectors concerning matters of contractual nature. They are subordinates to Supreme Court
- vi. The Labour Tribunal** - It deals with settling disputes between employers and employees of the private sector. It is subordinate to the Court of Appeal.
- vii. The Commercial Tribunal** - It deals with disputes of a commercial nature. It is subordinate to the Court of Appeal.
- viii. The First Instance Court Martial** - It has jurisdiction over offenses committed by soldiers and officers under the grade of Major. It is subordinated to the Court Martial.

Kenya

i. The Supreme Court

The Court is established under Article 163 of the Constitution of the Republic of Kenya (hereafter Constitution) and the Supreme Court Act (No. 7 of 2011). The Court is headed by Chief Justice, who is the President of the court and deputized by the Deputy Chief Justice. The number of Judges of the Supreme Court is 7. The court has exclusive original jurisdiction to hear and determine disputes relating to the elections to the office of President. It has appellate jurisdiction to hear and determine appeals from the Court of Appeal and any other court or tribunal as prescribed by national legislation. For cases involving the interpretation or application of the Constitution at the Court of Appeal an appeal lies as of right to the Supreme Court.

In other cases where the Supreme Court or the Court of Appeal certifies that a matter of general public importance is involved, an appeal will lie to the Supreme Court. The Supreme Court may give an advisory opinion at the request of the national government, any State organ, or any county government with respect to any matter concerning county government. In the Matter of **Commissioner for the Implementation of the Constitution (Application No. 1 of 2011, [2011] eKLR)**, the Supreme Court affirmed its jurisdiction to hear matters related to the date of the first elections under the 2010

Constitution. All courts, other than the Supreme Court, are bound by the decisions of the Supreme Court.

ii. The Court of Appeal

This was established under Article 164 of the Constitution. It consists of not fewer than twelve Judges. The head of the Court of Appeal is the President of the Court elected by the Judges of the Court of Appeal from among themselves. It hears appeals from the High Court and any other court/tribunal as prescribed by law.

Decisions of the Court are binding upon the High Court and other subordinate Courts.

iii. The High Court

The High Court was established under Article 165 of the Constitution. The head of the court is the Principal Judge of the High Court, who is elected by the Judges of the High Court from among themselves. The court has unlimited original jurisdiction in criminal and civil matters. It has jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened. It also hears appeals from decisions of a tribunal appointed under the Constitution to consider the removal of a person from office (other than a tribunal appointed to remove the President under Article 144). The High Court has jurisdiction to hear any question respecting the interpretation of the Constitution including the determination of the question whether any law is inconsistent with or in contravention of the Constitution; the question whether anything said to be done under the authority of the Constitution or of any law is inconsistent with, or in contravention of, the Constitution; any matter relating to constitutional powers of State organs in respect of county governments and any matter relating to the constitutional relationship between the levels of government.

It also hears ordinary civil cases where the value of the subject matter exceeds the pecuniary jurisdiction the Resident Magistrate courts. In criminal cases the High Court only hears cases relating to offences of murder and treason. In addition to the ordinary civil and criminal jurisdiction of the High Court there are certain matters which can only be heard by the High Court exclusively. The court also hears questions relating to conflict of laws between the county laws and the national laws under Article 191; and supervises all the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function. Any other jurisdiction, original or appellate, conferred on it by legislation. As a superior court of record, decisions of the High Court are binding on subordinate courts.

The High Court lacks jurisdiction in respect of matters reserved for the exclusive jurisdiction of the Supreme Court; or matters falling

within the jurisdiction of Industrial Court established under Art. 162(2) of the Constitution and Act No 20 of 2011; environment and Land Court established under art 162(2) of the Constitution and Act No 19 of 2011. Others include see Articles 165(3) (d), 165(3) (b) Constitution & Order 53 of the Civil Procedure Rules. The High Court has appellate jurisdiction, appeals from all subordinate courts and tribunals exercising quasi-judicial powers can properly be entertained by the High Court.

The High Court has appellate jurisdiction, appeals from all subordinate courts and tribunals exercising quasi-judicial powers can properly be entertained by the High Court. The High Court exercises supervision over all subordinate courts and in this regard can transfer cases from one subordinate court to another if it deems it fit. Section 4 of the Judicature Act provides that the High Court shall be a court of admiralty i.e. the court shall entertain cases of High Seas, Territorial Waters, Lakes and other navigable inland waters. The Court also hears cases on winding up of companies. It has probate jurisdiction under the laws of succession. Bankruptcy petitions Matters dealing with Intellectual property.

iv. Courts with the status of the High Court

The Courts with the status of the High Court have been established by legislation pursuant to article 162(2) of the Constitution. They are:

- a) The Industrial Court-established under Industrial Court Act (No 20 of 2011) and
- b) The Environment and Land Court-established by the Environment and Land Court Act (No 19 of 2011).

v. Subordinates Court

Under Article 169 of the Constitution of Kenya, the subordinate courts are: the Magistrates Courts; the kadhis' Courts; the Court Martial; and any other court or tribunal as may be established by an Act of Parliament, other than the Courts established as required by Article 162(2).

a) Magistrates Courts

Section 10 of the Magistrates' Court Act, Cap. 10 of the Laws of Kenya, establishes the Resident magistrates Court which is duly constituted when held by a Chief Magistrate, a Senior Principal Magistrate, a Senior Resident Magistrate or a Resident Magistrate. The Court has original jurisdiction throughout Kenya. The place of suing in civil proceeding is provided for by the Civil Procedure act. In criminal cases, the Resident Magistrates' have power to hear and determine all cases involving offenses under any Kenyan law except

those offences exclusively triable by the High Court or the Courts Martial

b) The Kadhis' Courts

The Kadhis' Courts are established under Article 170 of the Constitution of Kenya 2010 and their jurisdiction is limited to determination of questions of Islamic law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Islamic religion.

c) Other Courts and Tribunals

These include the following:

- i) Courts Martial established under Article 169 of the Constitution;
- ii) Children's Court-established under Part VI of the Children Act (No 8 of 2001) as a subordinate court (under the First Schedule to the Criminal Procedure Code;
- iii) Business Premises Rent Tribunal;
- iv) Rent Tribunal;
- v) The Cooperative Tribunal; and
- vi) Licensing Boards.

Rwanda

Rwanda inherited the civil law system from its colonial masters. From 1999, Rwanda has progressively embraced the common law system while retaining good civil law practices. The Rwandan Constitution is the supreme law and any law or custom inconsistent with it is null and void to the extent of its inconsistency.

The Rwandan judiciary has undergone several judicial reforms. Following the adoption of the Rwandan Constitution of 4 June 2003, enormous changes were made in the organization, functioning and jurisdiction of the Courts and the Judiciary in general.

Article 60 of the Constitution of the Republic of Rwanda, established the Judiciary as one of the three (3) independent arms of Government. Article 140 of the same Constitution vests the exercise of Judicial powers in the Supreme Court and other Courts. The Supreme Court has both administrative and financial autonomy under the Constitution.

The Judiciary includes the Supreme Court; the High Court and its five chambers. The High Court also has a special chamber which has jurisdiction over international or cross-border crimes (ICC). Upon proposal by the High Council of the Judiciary, the President of the Supreme Court may establish other necessary Chambers in the High Court. The judiciary also have Commercial High Court, commercial courts; the Intermediate Courts (Tribunal de Grande Instance or TGI);

and the Primary Courts (Tribunal de Base or TB). This has remained in the new Constitution of 2015. It is important to note that the Rwandan Government has embarked on the process of restructuring the judicial system by establishing the Court of Appeal in the current judicial framework that will be above the High Court.

An important aspect of Rwandese system is the **Mediation Committee** which is an organ meant for providing a framework for mandatory mediation prior to filing cases in courts. Hearing at first instance cases referred to in Articles 8 and 9 of the Organic Law. The mediation service is voluntary. Under the Organic Law N° 02/2010/OL of 09/06/2010 on organization, jurisdiction, competence and functioning of the mediation committee, each Sector has a Mediation Committee which is responsible for mediating between parties to certain disputes involving matters determined by law prior to the filing of a case with the court of first instance. The Mediation Committee comprises of twelve residents of the sector who are persons of integrity and are acknowledged for their mediating skills. They are elected by the Executive Committee and Councils of sectors from among persons who are not members of decentralized local government or judicial organs for a term of two years which may be extended.

The Rwanda judicial hierarchy is as follows:

i. The Supreme Court

This is the highest Court in the country. The decisions of the Supreme Court are not subject to appeal save in terms of petitions for the exercise of the prerogative of mercy or revision of judicial decisions. Its decisions are binding on all parties concerned.

ii. The Court of Appeal

The Rwandan Government has embarked on the process of restructuring the judicial system by incorporating the Court of Appeal in the current judicial framework that will be above the High Court.

iii. The High Courts

There is a High Court with four (4) detached chambers in the countryside. It has a wide range of civil and criminal jurisdiction. There is also a Commercial High Court exercising commercial jurisdiction. There are three (3) Commercial courts under it.

iv. The Intermediate Courts

These are established across the country with civil and criminal jurisdiction.

v. The Primary Courts

These courts are established in each district. They are the lowest courts, with civil and criminal jurisdiction.

vi. The Specialized Courts

These mainly comprise of the **Military Courts**. The Military Courts handle offences committed by military personnel irrespective of rank. Appeals from the Military Courts go to the Supreme Court. This category also includes Commercial Courts and others that may be established by an Organic Law. An Organic Law may establish other courts or suppress such others

South Sudan

The South Sudanese legal system is built on the combination of statutory and customary laws. South Sudan has enacted dozens of laws since 2005. The Transitional Constitution structures the government according to the principle of separation of powers between the executive, legislature and the judiciary. South Sudan is divided into ten states, which are to manage affairs according to a principle of “decentralized government” and “devolution of powers.” The highest state-level executive authority is the Governor. State legislative assemblies pass legislation in accordance with and subject to the supremacy of national laws, in case of conflict. The states do not have their own judiciaries, but each state contains a High Court. South Sudan’s pluralist legal system grants customary courts concurrent jurisdiction, and they often operate alongside statutory courts.

The Judiciary in the Republic of South Sudan is established under the Transitional Constitution of 2011, the Judiciary Act of 2008, the Code of Civil Procedure Act of 2007, the Code of Criminal Procedure Act of 2008, and the Local Government Act of 2009. The Judiciary in South Sudan is a complex structure consisting of constitutionally established government courts, which base their adjudication on statutes, and customary courts, which are presided over by traditional authorities and rule according to the customary laws of their respective ethnic groups.

Below is a summary of South Sudan Court System which is broadly categorised into Statutory Courts and Customary Courts:

A. Statutory Courts

i. The Supreme Court (National Level)

The Supreme Court, located in Juba, is the highest organ of the judiciary. It consists of seven Judges (called Justices), one of whom is

the Chief Justice of the Supreme Court and one the Deputy President. The Court can form three different panels: the Constitutional Panel, the Criminal Panel and the Civil Panel. The first consists of all justices, the latter of three justices. Decisions are majoritarian. Most of the time the Supreme Court decides cases on the record but it can call litigants for oral argument if needed. The Supreme Court is the highest appellate court in the country and takes appeals from the Court of Appeals. For matters of constitutional law, the court is given original jurisdiction. The Court has to confirm any death penalty conviction. South Sudan allows for judicial execution for capital offenses, where executions are carried out by hanging. The original jurisdiction for capital offenses involving a death penalty charge is given to the High Courts.

ii. The Court of Appeals (Regional Level)

The three regional Courts of Appeals (based in Juba, Rumbek and Malakal, for the Greater Equatoria, Greater Bahr-el-Ghazal and Greater Upper Nile regions, respectively) are intermediary appellate courts that hear cases from the states' high courts. They further fulfil an administrative function over the High Courts in their jurisdiction. Three Judges sit on the bench, with one Judge being the President as appointed by the Chief Justice of the Supreme Court.

iii. The High Court (State Level)

Ten High Courts (one in each state capital) are the highest courts in South Sudan with original jurisdiction. Their jurisdiction, in some cases exclusive, is determined by the Civil Procedure Act 2007, and Criminal Procedure Act 2008. The High Court hears appeals from all the lower courts. There is no internal appellate hierarchy among the lower courts.

iv. First Class Magistrate Court (County Level)

The First Class Magistrate Courts are courts of original jurisdiction that are responsible for a specific county within a state. In criminal cases, they can pass prison sentences up to seven years and fines up to 5000 SSP. It should be noted that these lower levels of statutory courts are not fully in place, due in part to a lack of sufficient Judges. To compensate for this shortcoming, the judiciary plans to deploy mobile courts.

v. Second Class Magistrate Court (County/Payam)

The Second Class Magistrate Court is similar to the First Class Magistrate Court, but is more limited in its authority to pass prison sentences (maximum of three years) and fines (maximum of 2500 SSP).

Third Class Payam Court

The Third Class or Payam Court is the lowest government court. They are not allowed to pass fines over 300 SSP. These courts, even though provided for in the Judiciary Act, have not yet been established in reality.

B. Customary Courts

The Local Government Act of 2009 recognises and codifies customary law and establishes customary law courts in South Sudan. These courts decide cases within their jurisdiction based on “the customs, traditions, norms and ethics of the communities.” The Act prescribes principles for decision making in these courts, including general principles like non-discrimination, non-delay, compensation, possible mediation, and a focus on substantive justice. Customary law courts do not have jurisdiction to hear criminal cases unless they have a “customary interface” and have been referred to the customary law court by a statutory court.

i. C Court: county paramount chief (County)

According to the Local Government Act, the C courts take criminal cases referred to them by the statutory government courts and often also hear cases involving intercultural disputes. The head chiefs from the county’s payams are members. The court is supervised by the county commissioner. The C courts are the highest appellate body among the customary courts. The decision of the C court can be appealed to the statutory Magistrate courts.

ii. B (Regional) Court: Head Chief (Payam)

The B courts have original jurisdiction over suits that involve large fines and prison sentences and are presided over by the payam’s head chief. They are supervised by the county’s paramount chief.

Furthermore, the B courts hear appeals from the A court. The decision of the B court can be appealed to the C court.

iii. A (chief) court: executive chief (Boma)

The A courts have original jurisdiction over family and marriage cases, minor disputes and local administrative cases. The courts are supervised by the payam’s head chief.

Tanzania

The Tanzanian Judicial system is as below:

1. Judicial System of Mainland Tanzania

The legal system of Tanzania is largely based on common law, but it is also accommodates Islamic or customary laws, the latter sources of law being called upon in personal or family matters.

The Judiciary is formed by the various courts of judicature and is an independent arm of the government. Tanzania adheres to and respects the constitutional principles of separation of powers. The Constitution makes provision for the establishment of an independent judiciary, and the respect for the principles of the rule of law, human rights and good governance.

The Judiciary in Tanzania can be illustrated as follows. It has three tiers: The Court of Appeal of the United Republic of Tanzania, the High Courts of Mainland Tanzania and Zanzibar and the Magistrates Courts, i.e. the Resident Magistrate Courts and the District Court (both of which have concurrent jurisdiction) and Primary Courts which are the lowest in the judicial hierarchy.

i. Court of Appeal

The Court of Appeal of Tanzania, established under Article 117(1) of the Constitution, is the highest Court in the hierarchy of the Judiciary in Tanzania. It consists of the Chief Justice who is also the head of the Judiciary, and other Justices of Appeal. The Court of Appeal of Tanzania is the court of final appeal at the apex of the Judiciary in Tanzania. The Court of Appeal also has revisional powers.

ii. High Courts

The High Court of Tanzania was established under Article 107 of the Constitution and subject to law, has unlimited original jurisdiction to entertain all types of cases. The High Court exercise original jurisdiction on matters of a constitutional nature and have powers to entertain election petitions. The High Court's Main Registry, (which includes the sub-Registries) caters for all civil and criminal matters. The High Court (mainland Tanzania) has established 10 sub Registries in different zone of the country. It also has two, currently four specialised divisions, namely, Commercial Division, the Land Division, the Labour Divisions and Corruption and Economic Crimes Division. Appeals from the High Courts lie to the Court of Appeal either with leave or without leave.

Primary Courts Kadhi's Court

i. Court of Appeal of Tanzania

The Court of Appeal Tanzania handles all matters from the High Court of Zanzibar.

ii. High Court

The High Court of Zanzibar is structured with the same structure as the High Court of Tanzania Mainland and it handles all appeals from the lower subordinate courts.

iii. Magistrate's Court

These Courts have jurisdiction to entertain cases of different nature, except for cases under Islamic law.

iv. Kadhi's Appeal Court

The main role of the Kadhi's Appeal Court of Zanzibar is to hear all appeals from the Kadhi's court, which adjudicates on Islamic law.

v. Kadhi's Courts

These are the lowest courts in Zanzibar which have adjudicate all Islamic family matters such as divorce, distribution of matrimonial assets, custody of children and inheritance but only with Muslim families.

vi. Primary Courts

These have the same rank as the Kadhi's Courts and they deal with criminal and civil cases of customary nature.

Uganda

The hierarchy of the courts is as follows:

i. The Supreme Court

This is the highest and final Court of Appeal in Uganda. It is established under Article 129 (1) (a) of the Constitution of the Republic of Uganda of 1995. It is also the Supreme Court of records. It is composed of the Chief Justice and such other number of justices but not less than six. It has original jurisdiction in hearing of Presidential Election petitions and appellate jurisdiction in relation to appeals from the Court of Appeal

ii. The Court of Appeal

It is established under Article 129 (1) (b) of the Constitution of 1995. It is comprised of the Deputy Chief Justice and such other Justices of Appeal but not less than seven Justices. It hears appeals from the High Court and has no original jurisdiction except when acting as a Constitutional Court to hear constitutional matters under Article 134 (1) of the Constitution of Uganda.

iii. The High Court

It is Established under Article 129 (1) (c) of the Constitution of 1995. It has unlimited jurisdiction in both civil and criminal matters. It hears appeals from Chief Magistrates Courts as well as from some specialized tribunals. It consists of the Principal Judge and such number of Judges as may be prescribed by an Act of Parliament as per Article 138 (a) (b) of the Constitution. The High Court has eight divisions; Civil Division, Commercial Division, Family Division, Land Division ,Criminal Division, Anti- Corruption Division, Execution Division and International War Crimes Division.

iv. The Magistrates Courts (Chief Magistrates, Grade 1 and II)

These handle the bulk of cases (both civil and criminal countrywide). They are of three levels; Chief Magistrates, Magistrates Grade I and Magistrates Grade II.

v. Other Specialized Courts

These include:

- i) Industrial Court;
- ii) Court Martial Appeals Court;
- iii) General Court Martial;
- iv) Qadhis' courts; and
- v) Local Council Courts.