



**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**

RESOLUTION OF THE ASSEMBLY TO ADOPT AND OPERATIONALISE THE ADMINISTRATIVE AND FINANCIAL AUTONOMY GRANTED TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY AND TO DIRECT THE EALA COMMISSION TO CONSIDER AND APPROVE THE IMPLEMENTATION FRAMEWORK

By Hon. Susan Nakawuki-Nsambu and adopted by the House on Wednesday 7th February, 2018

WHEREAS the doctrine of separation of powers between the legislature, the executive and the courts are a well held principle *world over* which should also be applicable to the East African Community since it is modelled along the structures of the governments of the EAC Partner States;

AND WHEREAS Parliaments around the globe have transformed into fully-fledged independent institutions with unfettered mandates capable of holding the executive to account and to carry out their oversight roles without undue interference; hence, there is compelling argument that the Assembly and the Court should discharge their functions without the interference of Council or the Secretariat to allow overall good parliamentary governance. This is well articulated in two significant studies so far conducted as a result of the Commonwealth Latimer House Principles endorsed at Commonwealth Heads of Government meeting in Abuja in 2003; Report of a Commonwealth Parliamentary Association study group on the Administration and Financing of Parliaments held in Zanzibar, Tanzania in 2005, and most recently the CPA Benchmarks for the Democratic

Legislatures of The Caribbean, Americas and Atlantic Region each containing instructive recommendations for the independent governance of modern parliaments and promoting reformation of the management structures of parliaments to provide for services and funding entitlements for parliamentary purposes and providing the governance of parliamentary service to ensure the development of a cadre of competent, loyal, qualified and experienced staff;

AND WHEREAS the Treaty for the Establishment of the East African Community clearly separates the aforementioned mandates under each Organ of the Community and they are expected to exercise such mandate without interference from one another in order to make their contribution in the fulfilment of the objectives of the Community;

AWARE THAT the Assembly, right from its inception, has variously demanded the Council to effect financial and administrative autonomy for both the East African Legislative Assembly and the East African Court of justice in line with Article 16 of the Treaty for purposes of efficiently discharging their respective mandates; this being informed by the current practice where the Council of Ministers has variously taken decisions and issued directives that have far reaching implications on the Assembly and the Court in the exercise of their functions;

CONVINCED THAT Article 16 of the Treaty places limitations on the effects of the Council's Regulations, Directives, Decisions and Recommendations on the Summit, the Court and the Assembly;

COGNIZANT OF THE FACT THAT the Council having taken note of the limitations of the Treaty provisions and therefore causing challenges in decision making involving the Assembly and the Court; granted the two Organs full financial and administrative autonomy at its 33rd Meeting vide decision (EAC/CM 33/ Decision 29) and (EAC/CM 33/

Decision 27) in a bid to enable them secure broad independence; this being in line with Article 14 of the Treaty for the establishment of the East African Community which vests the Council of Ministers with policy making powers which it exercises through regular issuance of decisions and directives, such as its decision to grant autonomy to the two Organs, whose goal is to promote the efficient and harmonious functioning and development of the Community;

CONCERNED THAT there has been considerable delay in operationalising the duly granted financial and administrative autonomy of both the Court and the Assembly;

FURTHER CONCERNED THAT other matters of finance and administration like budgeting, institutional review and staffing of the Assembly, the restructuring of the Assembly's organogram, upgrading the position of Clerk and other staff of the Assembly, the need to create a dedicated cadre of staff of the Assembly based on performance contracts rather than term limits, have continued to stall thus, affecting the stability, efficiency and effectiveness of the Assembly;

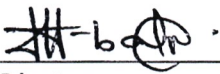
FURTHER CONCERNED THAT further delays are unjustified since the Assembly is already empowered under Articles 49 and 132 of the Treaty, the Administration of the East African Legislative Assembly Act, 2012, and the EALA Rules of Procedure, to exercise such powers as granted in the afore-mentioned Decision of the Council - this being through the EALA Commission, the Assembly Committees' and the Plenary;

NOW THEREFORE, BE IT RESOLVED THAT THIS ASSEMBLY:

1. Commends and extends its gratitude to the Council for heeding to its undisputed call to grant it and the Court, full administrative and financial autonomy;

2. Directs the administration of the Assembly through the EALA Commission to immediately implement the administrative and financial autonomy of the Assembly so granted by the Council;
3. Directs the EALA Commission to come up with all the necessary instruments required to fully achieve the objectives for which it was established including enhancing the terms and conditions of service for both Members and the staff of the Assembly as well as ensuring that the Assembly is appropriately staffed;
4. Adopts performance contracting as a scheme of service for staff of the Assembly as opposed to the two-term limits for its professional/technical members of staff; hence, retain the services of the staff whose final contracts are due to expire in April 2018 until such a time when they are subjected to performance contracting.

CERTIFIED BY:



Alex Obatre

For: CLERK OF THE ASSEMBLY

7TH FEBRUARY 2018

DATE: