



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 303: EAST AFRICAN COMMUNITY LAW

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Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. Judicial organs play significant roles in the integration processes. In this regard, please demonstrate how the East African Court of Justice has performed in respect of the following decided cases:

- (i) *Prof. Peter Anyang' Nyong'o & 10 Others –v- The Attorney General of the Republic of Kenya & 5 Others (Reference No. 1 of 2006) (10 Marks)*
- (ii) *James Katabazi & 21 Others –v- The Secretary General of the East African Community & The Attorney General of the Republic of Uganda (Reference No. 1 of 2007)(10 Marks)*
- (iii) *African Network for Animal Welfare –v- The Attorney General of the United Republic of Tanzania (Reference No. 9 of 2010)(10 Marks)*

Q2. On November 30, 2018, the EAC Summit was meant to hold its 20th Ordinary Summit at Arusha in Tanzania but the Meeting had to be hastily cancelled due to the absence of Burundi. Afterwards, the following statement was released:
The 20th Ordinary Summit Meeting scheduled to take place in Arusha on November 30 [2018] did not take place because of lack of quorum caused by the absence of Burundi.

The Summit will be reconvened at a later date ... The Heads of State regret the inconveniences caused to the distinguished delegates and guests.

It is noteworthy that only the Presidents of Kenya, United Republic of Tanzania

and Uganda were at Arusha on the material day yet the absence of Burundi was still cited as the reason the Meeting could not proceed.

- (a) By citing the relevant provisions of the Treaty for the Establishment of the East African Community, 1999 and the Rules of Procedure for the Summit of the Heads of State, underscore the significance of the above Meeting and demonstrate why, legally, the Meeting could not have taken place any way. (10 Marks)
- (b) In view of the above scenario, what five (5) major lessons would you advise the current EAC to learn from the erstwhile EAC that collapsed in in 1977 (**Hint: limit your comparison to the Authority and the Summit**) (10 Marks)

Q3. a) Sudan, Somalia and Democratic Republic of Congo are all countries seeking admission as partner states in the East African Community. The Secretary General of the EAC has requested you to prepare a brief to him on the requirements and procedure for admission of new partner states to the EAC. Please proceed noting to give your opinion whether the three countries should be admitted as partner states. (10 Marks)

b) With the help of the Treaty, succinctly demonstrate the rationale of the Fundamental Principles of the EAC (10 Marks)

Q4. a) You have been requested to prepare a presentation on the legitimacy of the East African Legislative Assembly (EALA) as an Organ of the EAC established under Article 9 of the Treaty. Please proceed noting that your presentation will be forwarded to the Sectoral Council on Legal and Judicial Affairs to prepare recommendations which the Council will table before the Summit when it meets on December 27, 2018 at Arusha. (10 Marks)

b) While decision-making by consensus and implementation by Variable Geometry appear to be at cross-purposes, they are both applicable as tools for the integration of the EAC. By use of judicial authorities, examine how these two otherwise competing approaches can be reconciled, if at all, to achieve a faster and deeper integration process. (10 Marks)

Q5. In April, 2018, Safaricom PLC announced the appointment of its director for consumer business, Sylvia Mulinge, a Kenyan Citizen, as the Managing Director/Chief Executive Officer of Vodacom Tanzania. Ms Mulinge was to take over from the then head of the Tanzanian business, Ian Ferrao, effective June 1, 2018.

Upon applying for a Work Permit from the Tanzanian Labor Office, Ms Mulinge's application was declined by the Labor Commissioner for reasons, which

although undisclosed, are suspected to be that Tanzania felt there were competent Tanzanian citizens who could be appointed to that position. This decision generated uproar and tension within the region with certain media outlets blaming Tanzania for hindering the operationalization of the EAC Common Market.

As an intern at the State Law Office, the Attorney General (AG) of Kenya has requested you to prepare a comprehensive legal opinion on the possible causes of action that can be pursued at the East African Court of Justice. The AG is also interested in knowing whether there could be certain limitations under the Protocol on the Establishment of the East African Community Common Market which Tanzania could have relied on. Proceed. **(20 Marks)**

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