



ANNUAL CONVENING OF THE EAST AFRICAN JUDICIAL EDUCATION COMMITTEE – STRENGTHENING CAPACITIES TO ADVANCE SDG 16

Development of capacity building programmes for judges and judicial officers on the role of the judiciary in promoting the rule of law and environmental justice for sustainable development in East Africa

Date: 10th-12th May 2021

Venue: Kigali, Rwanda

A: CONTEXT – BACKGROUND AND JUSTIFICATION

The East African Community (EAC), as a regional economic block, adopted and continues to prioritize the UN Sustainable Development Goals, key among them being Goal 16, which explicitly aims to “provide access to justice for all” and make the courts and the justice system an intrinsic part of regional accountability systems. Furthermore, one of the key principles on which the EAC is anchored is in Articles 6 and 7 of the Treaty for the Establishment of the East African Community (“the Treaty”), which refer to the respect for the rule of law. Accordingly, the East African Court of Justice (EACJ), being the judicial body of the Community, has a major responsibility to ensure the adherence to the rule of law in the interpretation and application of and compliance with the EAC Treaty. As per the same Treaty, national judiciaries are assigned a crucial role in the ongoing harmonization process within the Community and they are called to cooperate in “judicial and legal matters with a view to harmonizing judicial and legal systems” (Article 126 of the Treaty), while guaranteeing adherence to the rule of law in the region.

Strengthening the rule of law in the EAC requires both the approval of just laws that respect human rights as well as the application of those laws by justice institutions capable of adjudicating upon alleged civil and criminal matters. However, the partial understanding of laws, their evolving nature and the lack of the appropriate tools to implement them, limit the administration of the rights and responsibilities enshrined in laws. With the adoption of regional laws, a number of judges at the National Courts are called to adjudicate disputes related to a variety of issues, which they are not familiar with and for which in some cases no supporting material exists, yet the successful implementation of these laws depends upon the judiciary’s ability to base decisions on the text of the laws and the underlying principles.

To support the mitigation of the above challenges, the International Development Law Organization (IDLO) and the EAC signed a joint Memorandum of Understanding (MOU) in 2018 aimed at supporting the professional development of EAC judicial officers as well as the improvement of the overall quality of Judicial Education in the region. In line with the MOU, it is foreseen to convene the East African Judicial Education Committee (EAJEC), to discuss areas of capacity development with the Judicial Training Institutes in the East African region.

This will follow the identification of environmental law as a thematic area of focus for the EAJEC and its integration in judicial trainings to ensure a holistic approach. This is aimed at strengthening the

capacities of judges and judicial officers in identifying and responding to various challenges that justice seekers face whilst seeking justice.

Within this framework, IDLO and the EAC will be convening a forum of Judges and Judicial Officers from EAC Partner States (under the auspices of the East Africa Judicial Education Committee (EAJEC)) in April 2021, in line with the implementation of their joint MOU, to support the continued standardization of judicial education on environmental law in the region and the identification of emerging areas of interest on environmental justice for the East African partner states, while ensuring the advancement of SDG16.

B: OBJECTIVES

The objectives of the Forum are to:

- Raise awareness among judges and judicial officers on existing environmental challenges and the growing jurisprudence in the field of environmental law to ensure access to justice is upheld for the justice seekers;
- Strengthen the capacities of judges and judicial officers in identifying and responding to the main needs of justice seekers on environmental justice, leading to more responsive institutions;
- Strengthen the capacity of judges and judicial officers to manage environmental litigation; and
- Introduce judges and judicial officers to contemporary international law developments relating to environmental protection and sustainable development such as the Stockholm and Rio Principles, including access to justice, right to information and public participation.

The Specific Issues to be addressed at the Joint Conference are:

1: Importance of Capacity Building through Judicial Education for Sustainable Development. This issue will be addressed by answering the following questions:

- a) What is the role of judicial education institutions in building the capacity of judges to address sustainable development?
- b) How has judicial education in the EAC built capacity of judges to address sustainable development?
- c) What are the challenges and areas for improvement going forward?

2: The rule of law and environmental justice for sustainable development in East Africa: National Legal Frameworks & Emerging Jurisprudence. This issue will be addressed by answering the following questions:

- a) What is the status of the rule of law for sustainable development and environment in each partner state?
- b) What are the key highlights from the Constitution & legislation in each partner state?
- c) What **Five (5)** major practical steps/judicial decisions that demonstrate commitment to sustainable development & environmental rule of law nationally?

- d) What proposals for changes in law or procedures can be made to enhance sustainable development and environmental rule of law?

3: The State of Judicial Education on Environmental Justice and Sustainable Development in East African Countries: Experiences and Lessons Learnt This issue will be addressed by answering the following questions:

- a) What is the status of judicial education on sustainable development in each partner state? (Give examples of training programmes offered)
- b) Is the judicial education on sustainable development offered in your country adequate?
- c) Where should more investment be made to enhance judicial education on sustainable development in each partner state and in the region?

C: EXPECTED OUTPUTS

1. Increased knowledge and awareness among judges and judicial officers on the scope of application of international, regional and national environmental law instruments and their added value in their day-to-day adjudication of matters;
2. Improved understanding of the critical role of judges and judicial officers in the development, enforcement and compliance with environmental laws as well as its challenges;
3. Agreement on the process to develop and define a reporting mechanism on the performance of national judiciaries in the East and Horn of Africa towards the implementation of SDG16; and
4. Improved mutual trust among Judicial officers in cross-border judicial cooperation.

D: PARTICIPANTS

Participants will be drawn from the respective EAC Partner States' Judicial Training Institutes (including the Africa Judicial Education Network on Environmental Law (AJENEL)), the East African Court of Justice and the EAC Secretariat as indicated below.

1. Every Partner State will be expected to nominate 1 (one) participant from the Judicial Training Institutes within the Partner States.
2. Officials from the Environment Courts as follows:
 - i. Registrars of the Court (1 person); and
 - ii. Judges of the Courts of Judicature on Environmental Law (1 person).
3. The East African Court of Justice will be expected to nominate officials as follows:
 - i. The Registrar; and

- ii. Judges of the Court (2 persons).
- 4. Four (4) EAC staff from the Office of the Counsel to the Community will also attend the Forum. These will benefit from and facilitate the Forum, ensuring that all the relevant information is obtained and the Forum's outputs are captured accordingly.
- 5. Key resource person: one suitably experienced expert in the region on Environmental Law and Access to Justice to be hired to guide the discussions.

E: DATE AND LOCATION

The Forum will take place on 10th-12th May 2021 in Kigali, Rwanda. On 12th May a joint session on the subject area will take place with the East African Chief Justices.

F: COVID-19 MITIGATION MEASURES

Taking cognizance of the COVID-19 pandemic, the planning team is exploring options for a virtual meeting in the event that the physical meeting will not be possible. Both options are also seen as viable in the actualization of the forum.