Contents

THE EAST AFRICAN COURT OF JUSTICE

VISION:

"A world class Court dispensing quality justice for a united prosperous Community."

MISSION

''To contribute to the enjoyment of the benefits of 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***
- ***Accessibility***
- ***Respect for diversity***

1. Who is this Users Guide for and how can it help?

This Users Guide is provided free of charge by the East African Court of Justice ("EACJ" or "the Court") – to be used by all East Africans and others having an interest in the Court. The Guide seeks to help them gain insight into the Court's functions and operations; and on how to access the Court.

It is aimed at encouraging people to know about the EACJ, to make use of it in their civil cases or disputes and to obtain justice. This Guide aims to clarify who does what; how proceedings are handled in the Court; and how users of the Court can get the most out of the services provided by the Court.

Among the Court's users are the persons directly involved in the cases brought before the Court, namely: the Parties and their lawyers, the witnesses (including expert witnesses); as well as others, such as the "the friends of the Court" *(amicus curiae)*, researchers, scholars, students of law and integration, administrators and Policy makers both at the East African Community level and at the Partner States level, and many others of that kind.

However, this Guide does not cover all the details concerning the Court and what you should do. Many of the laws and procedures that control the Court's operations have been simplified and summarized in this Guide for easy and ready understanding. It should, therefore, be used only as a **guide** to the substantive provisions governing the operations of the Court (i.e. the primary law of the Court). If you are in any doubt about your rights, you should check with the registry of the Court; or refer to the primary law, or your lawyer.

2. What is the Treaty for the Establishment of the East African Community?

The Treaty for the Establishment of the East African Community ("the EAC Treaty") was signed in November, 1999; and entered into force in July 2000. In 2007, the Partner States established as an integral part of the Community a Common Market for widening and deepening mutual cooperation among Tanzania, Kenya, Rwanda, Burundi and Uganda (the "Partner States") to boost economic growth, cooperation and development of their common region.

The Partner States have authorised and allowed between and among themselves free movement of goods and services; free movement of capital; free movement of labour and persons; and the right of establishment and residence in order to benefit all the people of East Africa [**Article 7 (1) of the Treaty**].

In the Treaty the Partner States agreed that the objectives of the Community shall be "people-centred and market-driven", looking for economic growth and development of the region.

The East African Community has seven key organs: the Summit of the Heads of State and Government, the Council of Ministers, the Co-ordination Committee, the Sectoral Committees, the East African Court of Justice (EACJ), the East African Legislative Assembly (EALA), and the EAC Secretariat. These organs have been created by the Treaty as mechanisms to achieve its goals **[Article 9 of the Treaty].**

3. **What are the Basic Objectives and Fundamental Principles of the East African Community?**

(1) In furtherance of the establishment of the Community, the Partner States agreed to establish a Customs Union and a Common Market as transitional integral parts of the Community **[Article 2 (1)]** whose Objectives include:

- development of policies and programmes for widening and deepening co-operation among the Partner States in political, economic, social and cultural fields, research and technology, security, legal and judicial affairs;
- to establish a Customs Union, a Common Market and subsequently, a Monetary Union; and, ultimately, a Political Federation in order to strengthen and regulate their relations, the benefits of which are to be shared equally **[Article 5]**.

(2) To achieve their Objectives, the Partner States agreed the following Fundamental Principles:

- mutual trust, political will and sovereign equality;
- peaceful co-existence;
- good neighborliness;
- peaceful settlement of disputes;
- good governance, democracy, rule of law, accountability, transparency, social justice, equal opportunity, gender equality; and recognition, promotion and protection of human rights;
- equitable distribution of benefits;
- co-operation for mutual benefit.

(3) They also agreed the following Operational Principles for the Community:

- provision of an enabling environment, such as conducive policies and basic infrastructure;
- establishment of an export oriented economy, with free movement of goods, persons, labour, services, capital, information and technology;
- principle of subsidiarity (i.e multi-level participation of a wide range of participants in the economic integration);
- principle of variable geometry (i.e. f*lexibility to allow economic integration/participation at different speeds*);
- equitable distribution of benefits;
- principle of complementarity (i.e. *extent to which economic variables support each other*);
- principle of asymmetry (i.e variances in implementation measures) [**Article 7 (1)]**

(4) In light of the above Operational Principles, the Partner State undertake under **Article 7 (2)** of the Treaty to abide by the principles of good governance, adherence to democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights.

(5) Under **Article 8** of the Treaty, the Partner States have undertaken:

- to plan and direct their policies with a view to achieving the objectives of the Community, and implementing the provisions of the Treaty;
- to co-ordinate their policies through institutions of the Community;
- to abstain from measures likely to jeopardize the achievement of the above objectives or their implementation.

In this regard:

- each Partner State undertakes to enact and implement legislation necessary to give effect to the East African Community Treaty **[Article 8 (2)]**;
- Community organs, institutions and laws take precedence over their national counterparts **[Article 8 (4)]**.

NB: All the above Basic Objectives and Fundamental/Operational Principles, serve as valuable **aids** and **guides** in the interpretation and application of the Treaty.

4. What are the Protocols to the Treaty?

Protocols under the Treaty comprise any agreement that supplements or amends or qualifies the provisions of the Treaty. Once signed and ratified by the Partners States, Protocols become an integral part of the Treaty; and, as such, they become a critical part and aid to the interpretation and application of the Treaty.

Three such Protocols have been signed by the Partner States namely:

(1) The Protocol establishing the East African Customs Union (signed on 2nd March, 2004 came into force on 1st January, 2010, This Protocol provided for the first stage of the East African Community – namely, a Customs Union in which tariffs and non tariff barriers are reduced and progressively dismantled.

(2) The Protocol establishing the East African Common Market (signed on 20th November, 2009came into force on 1st July, 2010 July 2010). This Protocol elaborates the freedoms of movement of goods, services, labour, capital, persons, information and technology; and the rights of establishment and residence – that are germane to a Common Market.

(3) The Protocol establishing the **East African Monetary Union** (signed on 30th November 2013. Partner States are expected to conclude its ratification by July 2014). This Protocol delianates the "roadmap" to a single EAC Currency by 2024, issued by a common EAC Central Bank. This will be preceded by establishment of key institutions: including an East African Statistics Bureau; East African Surveillance, Compliance and Enforcement Commission (responsible for compliance and enforcement); and an East African Finance Commission (responsible for financial services).

NOTE: that on 30 November 2013, the Summit of the EAC Heads of State approved extension of the jurisdiction of the EACJ, to include the additional fields of Trade, Investment, and matters associated with the EA Monetary Union. The details of this extension will require conclusion of a Protocol, by the Partner States, to "operationalise the extended jurisdiction" consistent with **Article 27(2)** of the Treaty.

5. What is the East African Court of Justice (EACJ)?

The East African Court of Justice (the Court), is a regional court created under the EAC Treaty **[Article 9].** The Court has been in existence since November 2001. Like the other Organs of the East African Community, it has contributed, in its unique way, to the East African Community Integration process by settling disputes, legally guiding the integration process with its judicial pronouncements and also building regional legal decisions that have become common and applicable to the five Partner States of the Community. These regional legal decisions constitute the Court's "jurisprudence" (i.e. case law).

6. Why is the East African Court of Justice needed?

The Treaty was adopted for other purposes of widening and deepening co-operation among the Partner States of Tanzania, Kenya, Rwanda, Burundi and Uganda for their mutual benefit in the political, economic, social, cultural, legal and judicial fields among others. It is, therefore, important to recognize that some disputes, legal problems, questions, or contradictions could arise in any area of that cooperation within the countries of the Community, its institutions, or between its citizens.

Some of those disputes could escalate to the point at which one side or the other looks to the court system for resolution by starting a lawsuit. In these cases, these disputes or problems must be solved through a regional legal mechanism.

The East African Court of Justice ensures the adherence to law in the interpretation, application of and compliance with the rules and norms of the EAC Treaty **[Article 23]**. It provides necessary decisions and solutions to legal problems or disputes that arise. Indeed, through other legal mechanisms, the Court could even prevent such disputes from escalating into lawsuits. Furthermore, the decisions of the Court have precedence over decisions of national courts on a similar matter **[Article 33].**

7. What are the main Objectives of the Court for achieving its mission?

These objectives include the following:

- Implement all the relevant provisions of the Treaty **[especially Articles 27 (2) and 140 (4)],** including conclusion of necessary Protocols;
- Rationalize the design of the Court under the Treaty (review/amend);
- Proactively influence a positive shift in the mind-set of the EAC Policy Organs and other Stakeholders concerning the role and place of the Court;
- Make the Court visible and indispensable in [matters related to] the discharge of its mandate;

- Enhance the Capacity of the Court.

8. What are the Composition, Structure and Location of the Court?

Following the same spirit of integration, the Court is composed of two judges appointed by the Summit from each of the five EAC Partner States of the East African Community: Tanzania, Kenya, Rwanda, Burundi and Uganda. Therefore, the Court comprises a total of 10 Judges who currently seat in Arusha. Under the Treaty, this number can be increased to a maximum of 15 judges (with 10 for the First Instance Division, and 5 for the Appellate Division) **[Article 24].**

The initial Court comprised only one chamber whose decisions were final (without opportunity for appeal). With the Treaty Amendment of August 2007, the Court now consists of two Divisions:

(i) the First Instance Division; and

(ii) the Appellate Division ─ **[Article 23(2)].**

9. What does the First Instance Division of the Court do?

The First Instance Division (with a maximum of ten judges) has the mandate to hear your case, to administer justice, and to apply the relevant laws to your case (this is called **"jurisdiction"**). When you first introduce your claim before the Court, the First Instance Division will decide after hearing and studying the case whether or not you have a legitimate reason to bring your claim or complaint before the Court. It does so only in accordance with the Treaty. Decisions of the First Instance Division may be appealed to the Appellate Division of the Court **[Article 23(3) and Article 35A].**

10. What is the Appellate Regime of the EACJ?

(1) At its inception in November 2001, the EACJ comprised one unitary Court having six Judges sitting as a Single Chamber – with each one of the original three Partner States appointing two of those six Judges. The decisions of that Court were final: not appellable to any other court or tribunal. That original regime was changed in August 2007, when the Treaty was extensively amended to introduce, among others, a two-tier Court, having the following two distinct Chambers:

(a) the **First Instance Division**, composed of up to Ten Judges, having original jurisdiction to hear and determine, at first instance, all matters that come to the Court; and

(b) the **Appellate Division**, having Five Judges, appointed, one each by the current five Partner States), with the right to hear and determine appeals from judgments of the First Instance Division. The Appellate Division has original jurisdiction:

- to provide advisory opinions under Article 36 of the Treaty [**Rule 75**]; and
- to entertain requests (called *"case stated"*) from national courts of the Partner States for the EACJ to assist those courts to authoritatively interpret the Treaty in cases which are otherwise before such courts **[Article 34, and Rule 76]**.

NB: Decisions of the Appellate Division are final: not appellable anywhere else.

(2) Appeals from decisions of the First Instance Division to the Appellate Division are allowed in only three instances:

- to clarify points of law (i.e. not facts);
- to establish whether the court has jurisdiction (i.e. a mandate) to entertain your case; and
- to establish whether the First Instance Division committed any procedural irregularity in hearing your case – [**Article 35A**, and **Rule 77]**.

(3) You may appeal your case to the Appellate Division irrespective of whether the decision or judgment you are dissatisfied with was delivered by a single Judge, or three or more Judges, of the First Instance Division [**Rule 59 (3)**].

11. What does the Appellate Division of the Court do?

In the event that you are dissatisfied or do not agree with the decision taken by the First Instance Division, you can take your claim to the Appellate Division of the Court for re-assessment. The Appellate Division (comprising five judges) has the power to confirm, deny or change decisions taken by the First Instance Division. You should be aware, however, that the decision of the Appellate Division will be the final decision.

12. Over what subject matters does the Court have legal authority to administer justice (i.e. What is the scope of the Court's jurisdiction)?

Under the Treaty the Court has authority to administer justice over the following matters:

(1) The Court has jurisdiction (i.e. authority) over the interpretation and application of the Treaty. However, the Court has no authority to interpret the rights and powers expressly conceded by the Treaty to organs of any member countries of the Community **[Article 27(1)].**

(2) The Court will at an appropriate time in the future, be granted extended jurisdiction over other subject matters (whether original, appellate, human rights, or any other kind of jurisdiction). Such extension will require decision(s) of the Council of Ministers of the Community. On 30th November, 2013, the Summit of the EAC Head of States approved the Council of Ministers' decision to extend the Courts jurisdiction to include matters of trade, investment and EAC Monetary Union. To this end, the Partner States of the Community will need to agree a Protocol to operationalize the extended jurisdiction **[Article 27(2)].**

(3) In addition, the EACJ has the jurisdiction to hear and determine:

- Disputes involving a Partner State's failure to fulfil its Treaty obligations, or infringement of Treaty provision(s), including the legality of any law or action of the Partner State which does not conform to the Treaty; or where a Partner State refers the matter directly to the Court **[Article 28] ─** after the Council of Ministers has failed, in the first place, to resolve the dispute. **[Article 29].**

- Reference by legal persons (i.e. corporate entities) or natural persons (individuals) who are resident in any Partner State, who wish to challenge the

legality of actions of the Partner States or of the Community as infringing the Treaty **[Article 30].**

- Disputes between the Community, and its Employees arising from the terms and conditions of employment or the interpretation and application of the staff rules and regulations governing the Employees of the Community or its Institutions **[Article 31].**

- Disputes involving the Community, the Partner States or others regarding the Treaty or a commercial contract, if the dispute is submitted to the Court under a special arbitration agreement or arises out of an arbitration clause contained in a contract or agreement conferring such jurisdiction on the Court **[Article 32].**

- Requests made to the Court by the Partner States' national courts for preliminary rulings on the interpretation of the Treaty **[Article 34].**

- Requests for Advisory Opinions on Treaty questions affecting the Community **[Article 36].**

13. Does the EACJ have a Mandate to hear Human Rights Cases?

(1) In principle, the answer is "No" until such time when Article 27(2) of the Treaty will be operational zed to include Human Rights in the jurisdiction of the Court. The Court's mandate derives from the EAC Treaty. The basic role of the Court, in this integration process, is *"to ensure adherence to law in the interpretation and application of and compliance with [the provisions of] this Treaty*" [Article 23(1)]. Accordingly, the Court would have no direct jurisdiction over Human Rights disputes. To that end, Article 27(1) states that *"The Court shall initially have jurisdiction over the interpretation and application of this Treaty."*

(2) Nonetheless, the Treaty does contain certain other provisions whose nature and, therefore, interpretation and application, fall well within the realm of democracy, good governance, accountability, social justice, rule of law, economic and civic rights, and even human rights – see, in particular **Articles 6 (d),** and **7 (2)** of the Treaty; plus those of the **Common Market Protocol** – which provide for a series of **"freedoms**" of the movement of goods, services, capital, persons, information and technology across the Common Market' s borders; as well as the **"rights**" of establishment and residence within those borders.

The Court has jurisdiction to "interpret", "apply" and assure "compliance with" (i.e. non infringement of) all these provisions of the Treaty, and those of its Protocols – notably those of the Common Market Protocol.

14. Who can Access the Court?

The Court may be accessed by the following States, persons or institutions:

(1) By the Partner States that comprise the East African Community, in the following cases:

- If the State considers that another Partner State or an organ or institution of the Community:

- has failed to fulfil an obligation contained in the Treaty; or

- has infringed a provision of the Treaty ─ **[Article 28 (1)].**

- A State may also seek the Court to determine the legality of any Act, regulation, directive decision or action of another Partner State or of the Community or a Community institution on the ground that it is:

    - beyond the power of the maker (i.e. *ultra vires*);

    - unlawful

    - infringes the provisions of the Treaty;

    - infringes a rule of law; or

    - a misuse or abuse of power ─ **[Article 28 (2)].**

(2) By the Secretary General of the Community:

The Secretary General, after prior submission of the matter to the Council of Ministers, may refer to the Court the matter of a Partner State's failure to fulfil its obligation under the Treaty; or its infringement of a provision of the Treaty. The Secretary General makes the reference only where the Council of Ministers has itself failed to resolve the matter **[Article 29].**

(3) By Legal persons --these are companies or societies or similar corporate entities with legal residence in any Partner State. These legal persons can challenge the legality of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community on the grounds that it is unlawful, or it infringes the provisions of the Treaty **[Article 30].**

(4) By a Natural Person these comprehend individuals with legal residence in any of the Partner States. They too, like legal persons, can challenge the legality of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community on the grounds that it is unlawful, or it infringes the provisions of the Treaty **[Article 30].** They must do so **promptly**: within two months of the act challenged, or two months from the time they first became aware of the act challenged **[Article 30(2)].**

15. Who may appear or be represented before the Court?

There are several ways in which a person or entity may appear before the Court. It all depends on the nature of the person who is appearing or being represented **[Article 37].** Accordingly:

- A Party to any proceedings in the Court may appear in person or by an agent and may be represented by an advocate. The Advocate must be one who is entitled to practice before a superior Court of any Partner State **[Article 37, and Rule 17(1)];**

- The Counsel to the Community is entitled to appear in any matter where the Community or any of its institutions is a party, or where the Counsel thinks that such appearance is desirable **[Rule 17(2)].**

- A corporation or company may either appear or be represented by its director, manager or secretary, who is appointed by resolution under the seal of the corporation or the company. It may also be represented by an advocate **[Rule 17(3)];**

- A person under legal disability may appear by a guardian *ad litem* (i.e. a representative who has been appointed just for the complaint or trial); or by the next friend, as the case may be. The person may also be represented by an *advocate* **[Rule 17(4)].**

The advocate for a Party must file with the Registrar a certificate that he or she is entitled to appear before a superior court of a Partner State **[Rule 17(5)].**

All representatives of a Party other than an advocate are required to file with the Registrar proof of their appointment as such representatives **[Rule 17(6)].**

Subject to any law by which any right or cause of action is extinguished by the death of a person, proceedings before the Court do not end upon the death of any party. In the event that the death of a party occurs during the continuance of the proceedings, the legal representative takes over the proceedings **[Rule 17(7) and Rule 97].**

Where no legal representative is appointed within a reasonable time, the surviving party may, with the acceptance of the Court, proceed *ex parte*. This means that the party who is present will continue the process without including the other party **[Rule 17(7)(c)].**

16. How does the trial of a case before the Court begin; and who are involved in the case?

Cases begin with the filing of a **complaint** before the Court. The person or institution filing the suit is referred to as the **Applicant** or **Claimant,** the person or entity against whom the case is filed is referred to as the **Respondent**.

In some areas of law, the person filing the complaint can also be called the **Petitioner** and the person against whom the case is filed is called the **Respondent**.

17. What are the contents of a claim or complaint presented before the EACJ?

A claim or complaint should include:

(a) A Reference:

A Reference by a Partner State, the Secretary General, or a legal or natural person (under Articles 28, 29 and 30 of the Treaty) is instituted by lodging in the Court a statement of reference.

(b) A Statement of Reference must contain the following:

- The designation, name, address and (where applicable) the residence of both the Applicant and Respondent(s);

- The subject-matter of the reference and a summary of the points of law on which the application is based;
- Where appropriate, the nature of any supporting evidence offered; and

- The relief (i.e. remedy) sought by the Applicant **[Rule 24(1) & (2)].**

- Where the Reference:

  - seeks annulment of an Act, regulation, directive, decision or action of a Partner State, the application must be accompanied by documentary evidence of the same **[Rule 24(3)];**

  - is made by a body corporate, the application should be accompanied by documentary evidence of its existence in law **[Rule 24(4].**

The Applicant serves on every Respondent named in the Reference and on the Secretary General a notice of the Reference and a copy of the application **[Rule 24(5)].**

18. What are the Contents of a Claim between the Community and its Employees?

A dispute between the Community and its Employees under Article 31 of the Treaty is instituted by presenting to the First Instance Division a statement of claim.

The statement must contain:

- the name, designation, address and where applicable residence of both the Claimant and the Respondent(s);

- a concise statement of facts on which the claim is based and of the applicable law;

- the order (i.e. relief or remedy) sought **[Rule 25].**

19. What happens after a case is presented before the Court?

Upon your filing the claim or reference, the Registrar will issue a notification (in the standard Form 1 of the Second Schedule to the Court's Rules) signed by the Registrar or an authorised officer requiring the Respondents to file their statement of defence, accompanied by a copy of the statement **[Rule 26].**

20. What happens if the Respondent/Defendant cannot be found?

Substituted service:

Where the notification cannot be served normally **[under Rules 27 and 28],** the Court may direct the notification to be served by affixing a copy of it in some conspicuous place in both the Court premises and the premises in which the Respondent last resided or carried on business or worked for gain, or by advertisement in newspapers; or in such other manner as the Court thinks fit. This is known as **substituted service [Rule 29(1)].**

Substituted service is as effectual as if service had been made on the Respondent personally **[Rule 29(2)].**

Unless otherwise directed, substituted service shall be by advertisement, in the standard Form 4 of the Second Schedule to the Court's Rules of Procedure **[Rule 29(3)].**

21. What is the procedure when a suit is brought against someone?

The Respondent should file a Response (i.e. Defence) to the Reference [**Rule 27]**

Within **45** days after being served with a notification of the Reference, the Respondent should files a statement of response; and serves a copy of it on the Applicant **[Rule 30(1) & (2)].**

Within **45** days after service, the Applicant may file a reply to the response. The reply does not repeat the party's contentions. It focuses, rather, on the issues that still divide the Parties **[Rule 30(2)].**

Likewise, the Respondent may, respond to the Applicant's reply (i.e. a *rejoinder*) within **45** days of service. The *rejoinder* does not repeat the party's contentions; rather it seeks to bring out unresolved issues between the Parties **[Rule 30(4)].** Again here, as elsewhere in this Guide, if you are in doubt you should consult an advocate or check with the Court Registry either at the EACJ Headquarters, or at the Court's sub-registry located in your Partner State.

22. How should a Respondent/Defendant respond in his or her Defence?

A Respondent who disagrees with the Applicant/ Claimant's claim should file his side of the case (i.e. the *response*) stating:

- the name and address of the Respondent;
- a concise statement of facts and law relied on;
- the nature of the supporting evidence where appropriate; and
- the order (i.e. relief or remedy) sought by the Respondent **[Rule 31(1) & (2)].**

The Respondent files the statement of defence with or without a counter-claim; and serves a copy of it on the Claimant. A Respondent may add a counter-claim to the statement of defence, containing the following:

- an admission or denial of the facts stated in the claim;
- any additional facts if necessary and the law relied on;
- the order (i.e. relief or remedy) sought **[Rule 31(3)].**

23. What happens if a Respondent fails to file a Response/Defence?

Within **14** days after the close of pleadings or such other period as the Principal Judge may direct, the First Instance Division holds a scheduling conference with the Parties and their lawyers to ascertain:

- points of agreement and disagreement;
- the possibility of mediation, conciliation or any other form of settlement;
- whether evidence is to be oral or by affidavit;
- whether legal arguments shall be written or oral, or both;
- the estimated length of the hearing;
- any other matters the Division deems necessary ─ **[Rule 53 (1)].**

If the case has good potential for settlement, the Division shall direct that the case proceeds to Mediation or other form of settlement **[Rule 53 (2)].**

If the matter is to proceed to a hearing, the Division fixes the hearing date(s) **[Rule 53 (3)].**

24. What happens after the Respondent files a Defence?

The answers to this Question are the same as for Question 21 above **[all derived from Rule 30],** namely:

- The Respondent files a response to the Reference, serves a copy of it on the Applicant; who may file a reply to the response within **45** days after service;
- Likewise, the Respondent may, within **45** days of service, respond with a *rejoinder* to the Applicant's reply;
- Neither the reply nor the *rejoinder*, shall repeat the Parties' earlier contentions. Rather, each shall be directed to bringing out unresolved issues that still divide the Parties.

25. Do the Parties have to pay in order for the Court to fix a trial date?

Not at all. It is the responsibility of the Court to fix the trial date(s) after giving due regard to the views of the Parties, and to any special circumstances, including the urgency of the case. Once the trial is fixed, all the Parties in the case are informed of the date(s) by the Registrar **[Rule 55].**

26. How should you address the Court's officials?

If you are a Claimant, Respondent, or Witness, you may be required to speak at some point known as **giving evidence.**
Sometimes before the hearing, the Court will have asked you to write down what you intend to say, known as a **Witness statement,** and to give it to all involved in the case**.**

Before the hearing, the Court will advise you when and how you should do this.

27. What are the Titles of the people you will meet at the hearing?

For the Judge(s) including the President and the Principal Judge**: My Lord(s)/Your Lordship(s);**

For a Registrar**: Your Worship;**

For the Attorney General (of a Partner State): **Learned Attorney [General];**

For the Solicitor General (of a Partner State): **Learned Solicitor [General];**

For the Advocates, including Counsel to the Community**: Learned counsel;**

For the person bringing a claim**: The Applicant or Claimant;**

For the person disputing a claim**: The Respondent or Defendant**.

28. How does the Court hearing proceed?

One Party, usually the Claimant, first begins **[Rule 62].** He states his case and produces his evidence ─ including calling his witness(es) to give evidence. The Respondent questions the Claimant (**in cross-examination).** If there is anything that is not clear, the Claimant may re-examine the witness further; and/or comment on any new points raised **[Rule 63].**

As the witnesses give evidence, the judge(s) take down notes. Simultaneously, a full audio recording of the proceedings is made **[Rule 65].** If the case is not concluded for each hearing, a new date is set when the hearing will be continued. That process is known as **Adjournment.** The Court will always fix a specific date when the case will carry on. If any date is fixed at a later stage, then the Court will notify all the parties of the new date.

29. What happens if the Applicant or the Respondent or Both fail to attend the hearing?

You should note the following:

- If neither Party attends the hearing, the Court may dismiss the claim or application or make such other order as it thinks fit **[Rule 61(1)];**

- If the Claimant or Applicant does not appear, but the Respondent appears, the claim or application may be dismissed and any counterclaim may proceed, unless the Court sees fit to adjourn the hearing. However, the Court may afterwards, upon application by the Claimant or Applicant, restore the claim or the application for hearing and may re-hear the counterclaim, if satisfied that the Claimant or Applicant was prevented by sufficient cause from appearing **[Rule 61(2)];**

- If the Respondent does not appear, but the Claimant or Applicant appears, the hearing may proceed without the Respondent; and any counterclaim may be dismissed unless the Court sees fit to adjourn the hearing. However, the Court may afterwards, upon the application of the Respondent, rehear the claim or application or restore the counter-claim for hearing if satisfied that the Respondent was prevented by sufficient cause from appearing **[Rule 61(3)];**

- Any *ex parte* judgment or order (i.e. one delivered when only one party is present) shall be set aside when the Court orders that a claim, counterclaim or application be restored for hearing or be reheard **[Rule 61(4)];**

- Where a claim, counterclaim or application is dismissed and an application for its restoration is disallowed, no fresh claim, counterclaim or application may be brought upon the same *cause of action* (i.e. the legal basis for suing) **[Rule 61(5)];**

- An application for restoration shall be made within **30** days of the decision of the Court **[Rule 61(6)].**

30. What are the different Court Proceedings and how is the Oral Proceeding conducted?

The EACJ handles its cases by adhering to the rules and procedure of the Court. The Court (both at the First Instance Division and at the Appellate Division) ensures that the cases are heard fairly and justly with equal treatment accorded to both Parties and in an organized and transparent way. All proceedings, including pronouncements of the Court's decisions, are held in open Court, except in the rare event of a party (for sufficient cause), applying for proceedings *in camera* **[Rule 60].** Also Applications heard by a single Judge, may be heard in *chambers* (i.e. the Judge's office), or in open Court **[Rule 60(3)].**

The proceedings before the Court are recorded and later transcribed for ease of access and custody. The transcribed records of each hearing are signed by the presiding Judge and are kept and maintained by the Registrar. The record of proceedings *in camera* are not published **[Rule 60(2)].**

A. Pre - Trial Proceedings in the First Instance Division [Rule 53]

(1) Scheduling Conference of the First Instance Division

Before commencement of the substantive proceedings**, t**he First Instance Division is required to hold a Scheduling Conference within **14** days after the close of pleadings. The conference seeks to ascertain:

- points of agreement and disagreement between the Parties;
- the possibility of mediation, conciliation or any other form of settlement;
- whether evidence is to be oral or by affidavit;
- whether legal argument(s) shall be written or oral, or both;
- the estimated length of the hearing;
- any other matter(s) the Division deems necessary.

If the case has good potential for settlement, the Division directs that the case proceed to Mediation or other form of settlement **[Rule 53(2)].**
If the matter is to proceed to hearing the Division fixes the date for the commencement of hearing **[Rule 53(3)].**

Where there is no need for evidence and all the parties opt to present their respective legal arguments in writing, the Court prescribes the time within which each party is to file its written legal arguments; and may fix the date(s) on which the parties shall appear before the Court (comprising three Judges) to deal with any other matter the Court thinks necessary **[Rule 53(4)].**

(2) How does the Court fix the date(s) for Oral Proceedings? [Rule 55]

Prior to the opening of oral proceedings, the Court meets in chambers for:

- an exchange of views concerning the written pleadings and the conduct of the case **[Rule 55 (1)].**

- fixing the hearing date(s) for the oral proceedings to take place, if possible, within a period not exceeding **6** months from the close of pleadings **[Rule 55 (2)].**

- when fixing the date(s) for the opening of the oral proceedings or postponing the opening or continuance of such proceedings, the Court takes into account:

    - the need to avoid unnecessary delay;

    - any special circumstances, including the urgency of the case or other cases on the list of cases;

    - the views expressed by the Parties; and

    - the need to administer substantive justice without undue regard to technicalities **[Rule 55(3); see also Rule 1(2)].**

After the date for opening oral proceedings is fixed, the Registrar issues and serves on the parties a notice (in standard Form 6 of the Second Schedule to the Court's Rules) stating the date and place of the hearing **[Rule 55(4) & (5)].**

B. Witnesses

(1) Summoning Witnesses [Rule 56]

Each Party has the responsibility to bring its own witnesses. However, a party may obtain the Court's summons to any person whose attendance is required either to give evidence or to produce document(s) **[Rule 56 (1)].**

The witness summons (issued in standard Form 7 of the Second Schedule to the Court's Rules):

- specifies the time and place of attendance;

- states whether attendance is required for giving evidence, or for producing document(s), or for both; and

- describes with reasonable accuracy the document(s) required **[Rule 56 (2) & (6)].**

Additionally, the Court on its own may summon any person to give evidence or to produce document(s) if in the Court's opinion, the evidence or document is essential for the just determination of any matter before it. The expenses of such a witness are paid by the Court **[Rule 57(6)].**

Where a summoned witness fails to appear or refuses to give evidence or to produce document(s), the Court may in its discretion impose upon the witness a pecuniary penalty not exceeding USD 200 **[Rule 56(4)].** Such penalty is enforceable as an order of the Court in accordance with Article 44 of the Treaty **[Rule 56(5)],** including

enforcement through attachment and sale of the movable property of the defaulting witness **[Rule 57(4)].**

(2) Expenses of Witnesses [Rule 57]

The party calling a witness is responsible for the witness's expenses **[Rule 57(1)].**

The party applying for summons deposits into Court a sum of money sufficient to defray the travelling and other expenses of the witness summoned **[Rule 57(2)].** The Registrar may require further deposits to meet further expenses **[Rule 57(4)].**

Expert witness(es) are allowed reasonable remuneration for the time spent in giving evidence and in performing any work on the case **[Rule 57(3)].**

(3) Commission to Examine Witnesses

The Court may issue a Commission or Letter of Request asking for the examination [, on interrogatories or otherwise,] of any person:

- resident within the limits of its jurisdiction who is, because of sickness or infirmity, unable to attend Court;
- resident beyond the limits of the Court's jurisdiction;
- who is about to leave such limits;
- who, being a civil or military officer of a Partner State or a servant of the Community, cannot attend the Court without detriment to the public service.

These Commissions or Letters are issued only:

- where the evidence, from a person resident outside the Court's jurisdiction, is "necessary";
- if the Court so orders, and only after payment into Court of the expenses of the Commission by the party requesting or benefiting from the commission **[Rule 58(3) & (5)].**

The Commission together with the evidence taken under it are returned to the Court to form part of the record of the proceedings **[Rule 58(4)].**

C. Trial Proceedings

(1) Quorum of the Court

The quorum for the First Instance Division is **3** Judges, one of whom is the Principal Judge or Deputy Principal Judge. However, having regard to the public importance of the matter in issue or to any conflict or other complexity in the applicable law, the Principal Judge or the Court may direct such matter to be heard and determined by the full bench of the Division **[Rule 59(1)].**

The following *interlocutory* (i.e. intervening) matters may be handled by a **single judge** of the First Instance Division **[Rule 59(2)]:**

- application to extend any time prescribed by the Court's Rules;
- application to extend the validity of a notification;
- application for substituted service;
- application to examine a serving officer;
- application for leave to amend a party's pleadings;
- scheduling conference.

If you are dissatisfied with the decision of the single judge you may (for "sufficient reasons") appeal directly to the Appellate Division of the Court **[Rules 59(3)].**

(2) Open Court Proceedings

All proceedings of the Court, including the pronouncement of the Court's decision are held in open Court **[Rule 60(1)].**

However, for sufficient cause, the Court may order the proceedings to be held *in camera* (i.e. privately closed to the members of the public)**.** The proceedings heard *in camera*, though recorded, are not published **[Rule 59(2)].** Proceedings *in camera* are exceptional to the general rule and practice requiring cases to be heard in open Court, where any member of the public can attend.

Applications heard by a single Judge may be held *in chambers* (judges' private office) or in open Court (public) as the Judge deems fit **[Rule 60(3)].**

(3) Statement and production of evidence

At the hearing, the party having the right to begin states its case and produces the evidence that supports the issues which it is required to prove. The opposite Party then states its case and produces its supporting evidence; and may then address the Court generally on the case. The party beginning may reply.

If the second Party produces no evidence, the beginning Party may address the Court first, followed by the reply of the second Party; and the comments of the beginning Party on any new points raised in the second Party's reply **[Rule 63(2)].** Alternatively, the Parties may present their legal *submissions* (i.e. arguments) in writing **[Rule 63(3)].**

(4) Oath or affirmation

Before giving evidence, a witness takes an oath or affirmation (using standard Firm 8 of the Second Schedule to the Court's Rules), **[Rule 64].** A witness, who tells lies on oath/affirmation, commits the offence of "perjury". Witnesses must tell the truth by giving a true account of events in their testimony.

(5) Taking and Recording of Evidence

Evidence given in Court is recorded by the official Court Recorder; signed by the Principal Judge or Deputy Principal Judge; and kept and maintained by the Registrar **[Rule 65 (1)].**

The Court may recall any witness who has given evidence, to be examined further **[Rule 65(2)].**

(6) Adjournments

Adjournments of cases are discouraged unless it is absolutely necessary. Without strict control, adjournments can be the cause for delay of justice. It is against this background that the hearing of cases continues from day to day until the end, unless the Court finds it necessary to adjourn for reasons to be recorded **[Rule 66(1)].**

(7) Consequences of Non-Attendance of the Parties

If all the parties or any of them fail to appear at the hearing, the Court may proceed to dispose of the case in one of the following ways:

- dismiss the claim or application ─ where neither Party appears **[Rule 61(1)];**
- dismiss the claim or application, but proceed with the Respondent's counter claim where only the Respondent but not the Claimant /Applicant appears **[Rule 61(2)];**
- proceed with the case, but dismiss the counter claim where only the Claimant/Applicant (but not the Respondent) appears **[Rule 61(3)].**
- proceed to determine the dispute or reference forthwith even if a Party fails to produce evidence or to cause the attendance of its witnesses, or to perform any other act necessary to further the progress of the case, **[Rule 66(3)].**
- The above dismissals may subsequently be set aside and the *status quo* restored, if the Court is satisfied, upon application, that the absent Party was prevented by sufficient cause from appearing **[Rule 61(2), (3), (4) & (6)].**

31. What are the Form and Content of the Court's Judgments, Rulings, Decisions, Decrees and Orders?

(1) Pronouncement and Contents of a Judgment [Rule 68]

Judgment is normally delivered within **60** days from the conclusion of the hearing **[Rule 68(1)].**

The Court may give its judgment forthwith at the close of the hearing of the case; or subsequently on notice to the Parties **[Rule 68(2)].**

Occasionally, the Court may, deliver only the *decision* of the Court and leave the *reasons* for the judgment to be given on a later date. Such date is notified by the Registrar to the Parties. This normally happens when the time is too short for a comprehensive reasoned judgment,

especially where an injunction or Court decision is urgently required to avoid an empty decree **[Rule 68(3)].**

Except for an order of a single judge, the Court gives one judgment signed by the Judges who participated in the case. A Judge dissenting is not required to sign the judgment, and may write a dissenting judgment **[Rule 68(4)].**

Judgments of the Court (including dissenting judgments) are sealed with the seal of the Court and deposited in the registry. The Registrar provides the Parties with certified copies of the judgment **[Rule 68(5)].**

(2) Contents of an order

Decisions of the Court are embodied in an order.

The order is dated with the date the decision was delivered; contains particulars of the case (e.g. the Parties, their lawyers/agents, the facts, the issues for determination etc.) and specifies clearly the decisions reached and the reliefs granted **[Rule 68(5) & 69].**

(3) Review of Judgements [Article 35 of the Treaty]

- A Party may apply to the Court to review its judgment or order **[Rule 72].**
- The application for review should be based on the ground:
    - that the Party has discovered some new and important matter or evidence which was not within the Party's knowledge, or could not be produced, at the time of the judgment or order; or
    - of some mistake, fraud or error *apparent* (i.e. obvious) on the face of the record **[Rule 72(2)].**

There are several steps to take into account when a Party decides to appeal the Court's judgment:

(1) Raising Preliminary objections in the Appellate Division

A Respondent who intends to raise a preliminary objection to an appeal must give **7** days' written notice to the other Parties of the grounds of that objection. The notice is given to the Court **7** days before the scheduling conference, and is served on all Parties to the appeal **[Rule 98].**

(2) Presentation of arguments in writing

A Party to an appeal need not appear in person or by advocate at the hearing of the appeal. He may opt to *lodge* (i.e. file) in the appropriate registry a written statement of his arguments supporting or opposing the appeal or the cross-appeal, if any. Moreover, he must before or within **7** days after lodging his statement serve a copy of it on all the other Parties appearing in person or separately represented **[Rule 100(1)].**

Such statement is accorded the same consideration as is given to oral arguments made at the hearing **[Rule 106(d)].**

Every such statement is lodged:-

- by an Appellant, within **14** days after lodging his memorandum of appeal;

- by a Respondent, within **30** days after service on him of the memorandum and record of appeal **[Rule 100(2)].**

(3) Filing a Supplementary Statement of Appeal/Presentation of Arguments in writing

An appellant who has lodged a statement may, if served with a notice of cross appeal; lodge a supplementary statement of his arguments opposing the cross appeal **[Rule 100(3)].**

A Party who lodges a statement cannot address the Court at the hearing of the appeal except with the leave of the Court **[Rule 100(4)].**

(4) Scheduling Conference in the Appellate Division [Rule 99]

A scheduling conference is held in the Appellate Division within **14** days after the close of pleadings or such other period as the President may direct. The purpose of the conference is to ascertain:

- points of agreement and disagreement between the Parties;

- whether legal arguments shall be written or oral, or both;

- the estimated length of the hearing; and

- any other matters the Court deems necessary.

If the matter is to proceed to hearing, the Court fixes the hearing date **[Rule 99(2)].**

Where all the Parties opt to present their legal arguments in writing, the Court fixes the time for the Parties to file their respective written legal arguments. The Court may also fix the date on which the Parties shall appear before a full Court to handle any other matter the Court thinks necessary **[Rule 99(3)].**

(5) Hearing Notice

The Registrar gives all Parties to an appeal at least **14** days' notice of the hearing date of an appeal; but it is not necessary to give that notice to any party with whose consent the hearing date was fixed **[Rule 101].**

(6) Quorum in the Appellate Division

The quorum in the Appellate Division is three Judges, one of whom shall be the President or Vice-President. However, having regard to the public importance of the matter in issue or to any conflict or other complexity in the applicable law, the President or the Court may direct such matter to be heard and determined by the full bench of the Division **[Rule 102].**

The following *interlocutory* (i.e. intervening) matters may be handled and determined by a single judge of the Appellate Division:

- application to extend any time prescribed by the Court Rules;
- application to extend the validity of a notification;
- application for substituted service;
- application for examining a serving officer;
- application for leave to amend a party's pleadings;
- Scheduling conference, **[Rule 102(2)].**

A decision of the single judge of the Appellate Division may be varied, discharged or reversed by the full Court. At the hearing by the full Court no additional evidence is adduced **[Rule 102(4)].**

A single Judge may exercise any power of the Appellate Division except the power to make a decision on appeal **[Rule 103)].**

(7) Open Court hearings

Appeals are heard in open Court ─ with the public allowed access (court space permitting and so long as the public observes orderly Court conduct) **[Rule 105(1)].**

The Presiding Judge may, in exceptional circumstances direct that the public or any particular person or category of persons be excluded or removed from the Court. Nothing in all this prejudices the inherent power of the Court to hear proceedings *in camera* **[Rule 105(3)].**

(8) Arguments at the hearing

Except with the Court's leave, at the hearing of an appeal—

- a Party cannot argue that the decision of the First Instance Division should be reversed or varied on any other ground ─ except on the grounds specified in the memorandum of appeal or in a notice of cross-appeal **[Rule 106(a)];**
- a party cannot support the decision of the Court of First Instance on any ground not relied on by that Court or specified in the notice given **[Rule 106(a)];**
- a Respondent cannot raise any objection to the competence of the appeal which might have been raised by application (under Rule 81 of the Court's Rules) to strike out the notice of appeal **[Rule 106(b)].**

The Court does not allow an appeal or cross-appeal:

- on any ground not set forth in the memorandum of appeal or notice of cross-appeal; or
- without affording the Respondent, or any person who in relation to that ground should have been made a Respondent, or the Appellant, as the case may be, an opportunity of being heard on that ground [**Rule 106(c)].**

The arguments contained in a statement lodged with the Court by a Party who opts not to appear in person or by an advocate receive the same consideration as is afforded oral arguments advanced at the hearing of the appeal **[Rule 106(d)].**

(9) Judgment on Appeal

The Appellate Division pronounces its judgment in open Court, at the conclusion of the hearing or on a subsequent date notified by the Registrar to all the parties to the appeal **[Rule 109(1)].**

The judgment may be pronounced notwithstanding the absence of all or any of the Judges who composed the Division. The judgment of any Judge not present may be read by a Judge or by the Registrar **[Rule 109(2)].**

The Registrar sends a certified copy of the judgment to the First Instance Division **[Rule 109(3)].**

32. What is the process for instituting/commencing an Appeal?

The process of instituting an appeal in the Appellate Division of the EACJ by a person who is dissatisfied with a decision, order, or judgment of the First Instance Division, is governed by the Rules of Procedure of the EACJ (see current version of those Rules: dated 11 April 2013):

(1) First, and foremost, you need to have a copy of the 'unsatisfactory' decision of the First Instance Division. You or your lawyers, will get one from the Registry of the EACJ (immediately or soon after the delivery of the decision – see answer to Question 40).

(2) If your dissatisfaction involves simple (non complex) matters – such as mere correction of arithmetical mistakes or accidental slips or omissions in the judgment, you may apply to the same Court to have appropriate corrections made in that judgment [**Rule 70**].

(3) If your dissatisfaction is more substantial, requiring substantive review of the Court's judgment on the grounds – for instance of fraud, or obvious error, or discovery of "new" and "important" evidence (which could not be produced at the time of the judgment), then you or your lawyers may apply to the same First Instance Division to rehear your case afresh [**Rule 72**].

(4) If your dissatisfaction is even more fundamental than (2) or (3) above, you may appeal the decision/judgment of the First Instance Division to the Appellate Division. But, you may do so only if that decision/judgment involves:

- errors of law;
- lack of jurisdiction; or
- procedural irregularity – [**Article 35A & Rule 77**].

(5) To prosecute your appeal successfully, you will be required to follow the following procedure:

- lodge (*i.e. file)* in the Registry of the Appellate Division, a written statement (called "Notice of Appeal") – using Form B of the Seventh Schedule to the

Court's Rules of Procedure (copies available at the Court Registry). You are allowed **30** days (from the date of the unsatisfactory decision/judgment) to lodge the Notice – in duplicate [**Rule 78]**. If you run out of time, you may apply to the Court for extension of time [**Rule 82A**];

- serve *(i.e. avail)* copies of your Notice of Appeal to all persons directly affected by the appeal. You must do so:

  (a) within **14** days from the day that you filed the Notice in the Registry; and

  (b) file in the Registry an affidavit *(i.e. sworn statement of evidence)* of your hearing served all the other persons [**Rule 79**].

- if you are served a Notice of Appeal, you must within **14** days lodge in the Appellate Registry a written statement of your address; serve it to the Appellant; and file in the Registry an affidavit of your having served the Appellant – use standard Form D of the Seventh Schedule to the Court's Rules of Procedure (copies available at the Court Registry) [**Rule 80**];

- any person served with a Notice of Appeal may apply to the Court to strike out that Notice of Appeal (or the Appeal itself), if some essential step in the proceedings has been omitted, or has not been taken timeously **[Rule 81**];

- after effecting all the above, you will need to formally **institute** the Appeal itself. This is done under Rule 86 and 119 by lodging in the Appellate Registry:

  - five copies of the Memorandum of Appeal;

  - five copies of the Record of Appeal; and

  - security for the costs of the Appeal.

The prescribed time for instituting the Appeal is **30** days from the date of filing your Notice of Appeal [**Rule 86**]. If you lodge the Notice of Appeal, but then fail to institute the substantive appeal within the prescribed time of **30** days, you shall be deemed to have withdrawn your Notice of Appeal; and you may be liable to pay the costs *(i.e. expenses)* of the persons to whom you served the Notice of Appeal [**Rule 82**];

- The Memorandum of Appeal [see Form C of the Seventh Schedule to the Court's Rules] is a concise statement of:

  - the grounds *(i.e. reasons)* for your objection to the 'wrong' decision appealed; and

  - the remedy or relief you wish the Court to order – **[Rule 87**];

- The Record of Appeal contains copies of the documents used during the proceedings, hearing and judgment of your case in the First Instance Division – notably, the following:

  - the pleadings;

  - the affidavits and all other documents of evidence used at the hearing;

- the judgment or order;
- the decree;
- the notice of appeal;
- the record of the proceedings of the First Instance – [**Rule 88]**;

- you must serve copies of your Memorandum of Appeal and Record of Appeal on the Respondents within 7 days after instituting the appeal [**Rule 89];**
- if you are a Respondent, you may file in the Court [4 copies of] a Supplementary Record of Appeal if you feel that the Appellant's own Record of Appeal is defective or deficient for your side of the case. You must serve copies of your Supplementary Record on the Appellant and all the other Respondents [**Rule 90].** Similarly, the Appellant too may file a Supplementary Record of Appeal and serve it on all the Respondents **[Rule 90 (3)].**

33. What can I do as a Respondent to an Appeal?

- If you are the Respondent (or one of the Respondents) to an appeal before the Appellate Division of the EACJ, you can under **Rule 91** choose:

  (1) to oppose the appeal (i.e. keep intact the decision of the First Instance Division; on the grounds relied upon by the First Instance Division itself; or

  (2) to request the Appellate Division:

    (a) to confirm the decision of the First Instance Division, but on the basis of other or additional grounds to those relied upon by the First Instance Division; or

    (b) to vary or reverse the decision of the First Instance Division.

- In the case of (a) above you will need to file, in the Appellate Registry, a Notice of Affirmation to that effect – specifying the names and addresses of the persons to be served – use standard Form F of the Seventh Schedule to the Court's Rules of Procedure. You have to file 4 copies of your Notice within a period of not more than **30** days from the date the Appellant served you his Memorandum of Appeal and Record of Appeal.

- If, under (b) above, you seek to vary or reverse the decision of the First Instance Division, you will need to file [three copies of] a Notice of Cross-Appeal [in standard Form E of the Seventh Schedule to the Court's Rules of Procedure], specifying:
  - the names and addresses of the persons you intend to serve;
  - the grounds for your contention; and
  - the remedy/relief you seek from the Court.

34. Can I withdraw my Appeal/Cross-Appeal once filed?

(1) Yes, you can [Rules 94 & 96]; and you may do so at any time after instituting your appeal or cross-appeal, but before the appeal or cross-appeal is called for hearing.

(2) If you are the Appellant, you will need to lodge in the Appellate Registry, a written notice of your intention to withdraw the appeal. Within **7** days of filing that notice, you must serve copies of it to every Respondent.

(3) If all the Parties to the appeal consent to the withdrawal, you need to file their written consent in the Appellate Registry – whereupon your appeal is struck off the list of pending appeals.

(4) If those Parties do not consent, your appeal is dismissed, but subject to your paying the costs *(i.e. expenses)* of the non-consenting Parties. However, you are allowed to apply to the Court to order non-payment of those costs [**Rule 94]**.

(5) If you are a Respondent with a cross-appeal, you may withdraw your cross-appeal. You will need to lodge, in the Appellate Registry, a notice of withdrawal, and serve copies of it on the Appellant and all other Respondents on whom you served the notice of your cross-appeal **[Rule 96]**.

(6) If an Appellant withdraws his appeal, every Respondent to that appeal who has lodged a cross-appeal is free:

- to withdraw his cross-appeal, within **14** days of receiving notice of the Appellant's withdrawal of the appeal; or
- to proceed with his own cross-appeal [**Rule 95]** .

35. What happens to my case if I should die before termination of the Appeal?

The death of any party to the Appeal (whether Appellant or Respondent), does not terminate the appeal. In that event, any interested person (e.g. the family of the deceased, or other), may apply to the Court to substitute (as a Party) the legal representative of the deceased [**Rule 97].**

36. How does the Court execute or enforce its Judgments, Orders and Decisions?

A Party wishing to execute an Order of the Court applies for an execution order using the standard Form 9 of the Second Schedule to the Court Rules **[Rule 74(1)].**
Execution of a judgment of the Court which imposes a pecuniary obligation on a person, is governed by the Rules of civil procedure in the Partner State in which the execution is to take place **[Rule 74(2)].**

The order for execution is appended to the copy of the judgment and verified by the Registrar. Thereupon, the party in whose favour execution is to take place, may initiate execution proceedings in the Partner State **[Rule 74(3)].**

The Partner State's procedures determine who will be used to effect the recovery of the property.

37. Can the Court be requested to provide an Advisory Opinion?

Yes, it can. A request for an advisory opinion under Article 36 of the Treaty:

- is lodged in the Appellate Division;

- contains an exact statement of the question upon which an opinion is required; and

- is accompanied by all relevant documents likely to assist the Court **[Rule 75(1)].**

Upon receipt of the request, the Registrar immediately gives notice of it to all the Partner States and to the Secretary General (in this Guide called "the parties"); inviting them to present their written statements on the question within the time limit stated in the notice **[Rule 75(2) & (4)].**

The Division may identify any other person likely to furnish information on the question; and directs the Registrar to give notice of the request to such person; and to invite the person's written statement on the question **[Rule 75(3) & (4)].**

When the Registrar receives the written statements, he sends copies of those statements to the "parties" for their comments, if any **[Rule 75(5)].**

The Division decides whether oral proceedings should be held; fixes their hearing date(s); and invites "the parties" to make oral presentations **[Rule 75(6)].**

Advisory opinions do mirror the nature and content of the Court's judgments with necessary modifications. The Division delivers its advisory opinions in open court, notice having been given to the Partner States and to the Secretary General **[Rule 68(4), (5); and Rule 75 (6), (7), & (8)].**

38. What can a Party who disagrees with the Court's Judgment do?

If you lose your case and disagree with the Court's decision, you can apply to the Court to have the decision changed. These are the possible main procedures you can use:

(1) Apply for review of the decision/Judgment of the Court,

An application for review of a judgment under Article 35 of the Treaty is made in accordance with Rule 72 of the Court Rules.

A Party, who desires to obtain a review of the judgment or order, may apply to the Court for such review on the following grounds:

- discovery of some new and important matter or evidence which, after the exercise of due diligence, was not within the Party's knowledge or could not be produced at the time of the judgment or order; or

- on account of some mistake, fraud or error apparent on the face of the record **[Rule 72(2)].**

The Court grants an application for review only where the Applicant proves the grounds relied upon to the satisfaction of the Court **[Rule 72 (3)].**

When an application for review is granted, the Court may re-hear the case or make such other order as it thinks fit. A decision of the Court on an application for review is final **[Rule 72(4) & (5)].**

(2) Amendments of the Court's Judgments and Orders [Rule 70]

The Court has the power to correct clerical or mathematical mistakes in its Judgments and Orders either on its own or upon application by any of the Parties or other interested persons **[Rule 70].**

(3) Appeals

An appeal from the judgment or any order of the First Instance Division shall lie to the Appellate Division on:

- points of law;
- grounds of lack of jurisdiction; or
- procedural irregularity – **[Article 35A of the Treaty & Rule 77].**

(4) Notice of Appeal

A person desiring to appeal to the Appellate Division lodges a written notice in duplicate in the registry of the First Instance Division **[Rule 78(1)].**

The notice should:

- be lodged within **30** days of the decision appealed against **[Rule 78(2)];**
- state whether it is intended to appeal against the whole or only part of the decision;
- where it is intended to appeal against part only of the decision, specify the part complained of;
- state the address for service of the Appellant, and the names and addresses of all persons intended to be served with copies of the notice **[Rule 78(3)].**

When an appeal lies only with leave or on a certificate that a point of law is involved, it is not necessary to obtain the leave or the certificate before lodging the notice of appeal **[Rule 78(4)].**

Where it is intended to appeal against a decree or order, it is not necessary that the decree or order be extracted before lodging a notice of appeal **[Rule 78(5)].**

A notice of appeal is made using standard Form B of the Seventh Schedule to the Court's Rules and is signed by the Appellant **[Rule 78(5)].**

39. Can the EACJ help you settle a dispute without going to trial?

Yes, it can! The EACJ has developed several "alternative dispute resolution," or simply "Mediation" processes for resolving disputes without going to trial. These processes offer several advantages for solving a dispute. They:

- save time;

- save legal expenses;
- provide the parties an opportunity for greater control over the dispute resolution process;
- allow parties to resolve their conflict in a more creative way than might be possible if it were left to *litigation* (i.e. adjudication by a judge);
- give the parties greater privacy and confidentiality in resolving their dispute than is afforded in a public courtroom;
- reduce the emotional toll that a lawsuit can take on everyone concerned;
- can permit valued relationships among the parties to be preserved.

(2) What are these "Alternative Dispute Resolution" Processes?

There are several alternative dispute resolution processes: arbitration, mediation, early neutral evaluation, moderated settlement conference, direct negotiations, etc.

However, in accordance with **Article 32** of the EAC Treaty the ADR mechanism of choice is Arbitration. The Court has set up an EACJ Arbitration Scheme grounded in the EACJ's Rules of Arbitration of 2012.

Similarly, the EACJ in its Rules of Procedure expressly recognises Mediation as a viable ADR tool (see **Rule 54** and the guidelines set out in the **Fifth Schedule** to the Court Rules).

(3) When is it appropriate for you to use the "Mediation Process"?

A Mediation Procedure can be effective at almost any point in the life of a dispute. The scheme established by the EACJ is triggered when a dispute first arises or even before a lawsuit has been filed. This stage is called "Pre-trial Proceedings".

(4) How does the Mediation Scheme of the EACJ work?

Within **14** days of closing the parties' pleadings, the First Instance Division holds a scheduling conference called by the Principal Judge in order to determine:

- points of agreement and disagreement between the Parties;
- the possibility of mediation, conciliation or any other form of settlement;
- whether evidence is to be oral or by affidavit;
- whether legal argument shall be written or oral, or both;
- the estimated length of the hearing;
- any other matters the Division deems necessary – **[Rule 53].**

(5) If the case has good potential for settlement, the Division shall direct that the case proceeds to Mediation or other form of settlement.

Mediation (or other form of settlement) is completed within **21** days after its initiation. However, the judge may extend that time for a period not exceeding **15** days on application by the parties, showing sufficient reason for the extension **[Rule 54(2)].**

Where mediation succeeds, the Court records the settlement order; and the trial or dispute terminates **[Rule 54(2)].**

Where mediation fails, the matter proceeds to trial **[Rule 54(3)].**

(6) How should you act and what should you do during a Mediation Procedure?

Consistent with the law, the EACJ has established guidelines for supporting you and your lawyer to follow the mediation procedure **[Fifth Schedule of the Court's Rules].**

These are as follows:

- A mediation session takes place as directed by the management Judge at the scheduling conference under Rule 54 of the Court Rules of Procedure.

- At least **7** days before the mediation session every party, prepares a statement and provides a copy to every other party and to the Judge mediator. In this way everyone involved in the legal problem knows in advance what is going to be discussed in the session and what the positions and queries of the parties are.

Those statements identify the issues in dispute. They also briefly set out the positions and interests of the parties making the statements, so that the complaint states the parties' version of the facts, the legal theory under which the case is brought, and the damages or other relief sought. The other party could also ask to dismiss the complaint.

The Party making the statement attaches to it any documents that he considers to be central to the action. In this way, the party supports the complaint with documents (if they exist).
The Judge Mediator has the power to enlarge the time; and, to adjourn the mediation proceedings from time to time.

Each Party or its representative (responsible for making decisions) must attend the mediation session personally with its advocate; if any.

All communications at a mediation session and the mediator's notes and records are deemed to be "without prejudice" ─ i.e. will not affect (or even be used in) any subsequent litigation if the current mediation fails. The Parties or their representatives sign an agreement of confidentiality using standard Form A of the Fifth Schedule to the Court's Rules [**Rule 54(1**)].

If the agreement settles the case or resolves some of the issues in dispute, the Parties and their Advocates sign the agreement and the Judge mediator makes an order that the dispute or the issues as the case may be, have been so settled or resolved.

The order of the Judge Mediator is equivalent to a Court Decree. If the mediation leads to a partial settlement, an order will be drawn accordingly and the unresolved issues will go to trial.

40. Presentation of Complaints Concerning EACJ Services

Any person not satisfied with the services of the East African Court of Justice, has a right to complain. In this regard, you should be aware that:

- the Judges [and the Registrar] of the Court observe a professional code known as **The Judicial Code of Conduct**. It is the responsibility of every Judge [and Registrar] to ensure they follow principles of independence, impartiality, propriety, integrity and equality.
- If you are aggrieved with the judgement, order or decision of a single Judge or of the Court, you can seek a review by the same Judge or Court; or you may appeal to the Appellate Division of the Court, as the case may be;
- If you are otherwise dissatisfied with some other aspect of the Court's services you may complain:
    - to the Registrar, where the complaint concerns the Registry or any staff of the Court;
    - to the Principal Judge (or Deputy Principal Judge), where the matter is specific to the First Instance Division; or
    - to the President (or Vice President), where the complaint is either specific to the Appellate Division; or is general to the Court as a whole.

41. Is the EACJ open to hear my complaints and views?

In addition to taking any of the steps listed in the answers to Question **41** above, any person dissatisfied by the Judgment or order or decree of the Court can apply to the Registrar of the Court for a copy of it upon payment of a standard fee.

42. What are the roles and duties of Advocates before the Court and with their clients?

An Advocate is a professional person who is legally qualified and licensed to give advice on legal matters including how to prosecute cases through the East African Court of Justice.

An advocate representing a Party before the EACJ must be one who is entitled to appear before a superior court of a Partner State **[Rule 17(5)].**

The Court is not responsible for appointing Advocates nor does it get involved in the Advocate-Client relationship.

Advocate - Client Costs

Instruction fees

The fee for instructions in suits and references are set out in the Second Schedule to the Court's Rules. The taxing officer in his or her discretion may increase or reduce the fee.

In proceedings in which no defence or other denial of liability is filed, or, in a reference where the value of the subject matter can be determined from the pleading, or the judgment or settlement between the parties –

As between advocate and client the minimum fee is:-

- the fees increased by one third; or
- ordered by the Court, and increased by one-third; or
- the fees as agreed by the parties pursuant to the Court's order or judgment, and then increased by one third, as the case may be, such increase to include all proper attendances on the client and all necessary correspondence.

Fees for drawing documents

The fee for drawing a document includes the preparation of all copies for use of the party drawing it and for filing and service when only one other party or one advocate for other parties has to be served: where there are additional parties, fees may be charged for making the necessary additional copies.

Taxation (i.e. assessment and determination) of costs

The Registrar is the taxing officer with power to assess the *costs* (i.e. expenses) of or arising out of any claim or reference **[Rule 113(1)].**

The remuneration of an advocate by the client is by agreement between them. Where there is no agreement, either of the parties may refer the matter to the Registrar for taxation **[Rule 113(2)].**

The costs are taxed in accordance with the rules and scales set out in the Third Schedule to the Court Rules (for the First Instance Division), and the Eighth Schedule (for the Appellate Division) **[Rule 113(3)].**

In taxing the costs of any suit or reference, the taxing officer disallows the costs of any matter improperly included in the record or supplementary record of the suit or reference.

43. Court Fees and Costs

(1) The payment of Court fees was abolished by the Court in November, 2012. However, Costs in any proceedings follow the event (i.e. the losing party pays the winning party the expenses incurred by the winning party to prosecute or defend the case), unless the Court finds that the expenses have been incurred improperly or without reasonable cause. In that event, the Court may call on the advocate by whom these costs have been incurred to show cause why such costs should not be borne by the advocate personally. Alternatively, the Court may order each party to bear its own costs - especially where the suit raised important issues of general public interest.

(2) Security for Costs

The Court, upon application of any Respondent or on its own initiative, may order the Claimant(s) [other than a Partner State, the EAC Secretary General, the Community

or its institutions] to deposit in the Court a sum of money as security for the expenses which the Respondent is likely to incur in the proceedings **[Rule 115].**

Fees are set out in the Third Schedule for the First Instance Division and in the Eighth Schedule for the Appellate Division of the Court's Rules in respect of all matters and services of the Court.

44. The Court's Holidays

The official holidays of the Community are the official holidays of the Court.

- The EACJ observes the following International Holidays: New Year's Day - (1st January); Labour Day – (1st May); Boxing Day (26th December);
- EAC Partner States' Independence Days (with the exception of Tanzania where Union Day is observed instead), namely:
    - Tanzania (26th April)
    - Burundi (1st July)
    - Rwanda (1st July)
    - Uganda (9th October)
    - Kenya (12th December)
- Religious Days: Good Friday, Easter Monday, Eid el Fitri, Eid el Haji, and Christmas Day;
- EAC Day (30th November).

45. How to Contact the EACJ

HEADQUARTERS

Physical Address:
East African Community Building
EACJ Wing
Africa Mashariki Road/EAC Close
Arusha,
TANZANIA

Postal Address:
East African Court of Justice,
P.O. Box 1096
Arusha,
TANZANIA

E-mail: eacj@eachq.org

Telephone: +255 27 2506093 / +255 27 2162149
Fax: +255 27 2509493 / +255 27 2162188

46. Sub Registries (in the Partner States)

(1) Burundi
Court Clerk
EACJ Sub Registry
Supreme Court Building
Bujumbura, Burundi
Telephone: +257-771-18368/+257-777-51536
Email: jeanberchmansnzokirishaka@yahoo.fr

(2) Kenya
Court Clerk
EACJ Sub Registry
Milimani Courts
Nairobi, Kenya
Telephone: +254-721-405906 **Email:** achiengmarthlida@live.com

(3) Rwanda
Court Clerk
EACJ Sub Registry
High Court Building
Kigali, Rwanda
Telephone: +250-788621398 **Email:** grusingiza@yahoo.fr

(4) Uganda
Court Clerk
EACJ Sub Registry
Supreme Court Building
Kampala, Uganda
Telephone: +256-772867747 **Email:** twenysimon@yahoo.com

(5) Tanzania
Court Clerk
EACJ Sub Registry
Court of Appeal Building
Dar-Es-Salaam
Telephone: +255-786546475 **Email:** Mafwerejr@hotmail.com

47. Guidelines on a Reference for Preliminary Ruling

GUIDELINES ON A REFERENCE FROM NATIONAL COURTS FOR A PRELIMINARY RULING INFORMATION NOTE

1. General

   The Preliminary Ruling system is a fundamental mechanism of East African Community Law aimed at enabling National Courts to ensure uniform interpretation and application of that Law in all the Partner States.

2. The East African Court of Justice has jurisdiction to give Preliminary Rulings on the interpretation of East African Community Law and on the validity of the regulations, directives, decisions or actions of the Community.

3. That general jurisdiction is conferred on it by **Article 34** of the Treaty for the Establishment of East African Community (the Treaty).

4. While **Article 34** of the Treaty confers on the East African Court of Justice a general jurisdiction, it goes further to direct National Courts or tribunals (National Courts) to refer a matter to the Court if it considers that a Ruling on the question concerning the interpretation or application of the Provision of the Treaty is necessary to enable it to give a judgment.

5. The Preliminary Ruling Procedure being based on cooperation between the East African Court of Justice and National Courts, it may be helpful, in order to ensure that that cooperation is effective, to provide the National Courts with the following information.

6. This practical information is intended to provide guidance to National Courts as to whether it is appropriate to make a reference for a preliminary ruling and, should they proceed, to help them formulate and submit questions to the Court.

The role of the East African Court of Justice in the Preliminary Ruling Procedure

7. Under the preliminary Ruling Procedure, the Court's role is to give an interpretation of East African Community Law or to Rule on its validity, not to apply that Law to the factual situation underlying the main proceedings, which is the task of the National Court. It is not for the Court either to decide issues of fact raised in the main Proceedings or to resolve difference of opinion on the interpretation or application of Rules of National Law.

Guidelines on a Reference for Preliminary Ruling

8. In Ruling on the interpretation or validity of East African Community Law, the Court makes every effort to give a reply which will be of assistance in resolving the dispute, but it is for the referring Court to draw the appropriate conclusions from that reply.

The decision to submit a Question to the Court/The Originator of the Question

9. Under **Article 34** of the Treaty, any Court of a Partner State, in so far as it is called upon to give a Ruling in Proceedings intended to arrive at a decision of a judicial nature, may as a rule refer a question to the East African Court of Justice for a Preliminary Ruling.

10. It is for the National Court alone to decide whether to refer a question to the East African Court of Justice for a Preliminary Ruling. This is so irrespective of whether or not the Parties to the main Proceedings have requested it to do so.

Reference on interpretation

11. Any Court may refer a question to the East African Court of Justice on the interpretation of a rule of East African Community Law if it considers it necessary to do so in order to resolve a dispute brought before it.

12. It is for the National Court to explain why the interpretation sought is necessary to enable it to give judgment.

Reference on determination of validity

13. Although National Courts may reject pleas raised before them challenging the validity of regulations, directives, decisions or actions of the Community, the East African Court of Justice has exclusive jurisdiction to declare such as regulations, directives, decisions or actions invalid.

14. All National Courts must therefore refer a question to the Court when they have doubts about the validity of such regulations, directives, decisions or actions, stating the reasons for which they consider that that act may be invalid.

15. However, if a National Court has serious doubts about the validity of a regulation, directive, decision or action of the Community on which a national measure is based, it may exceptionally suspend application of that measure temporarily or grant other interim relief with respect to it. It must then refer.

Guidelines on a Reference for Preliminary Ruling

The question of validity to the East African Court of Justice, stating the reasons for which it considers the act to be invalid.

The stage at which to submit a question for a Preliminary Ruling

16. A National Court or tribunal may refer a question to the Court for a Preliminary Ruling as soon as it finds that a ruling on the point or points of interpretation or validity is necessary to enable it to give judgment; it is the National Court which is in the best position to decide at what stage of the proceedings such a question should be referred.

17. It is, however, desirable that a decision to seek a Preliminary Ruling should be taken when the National Proceedings have reached a stage at which the National Court is able to define the factual and legal context of the question, so that the East African Court of Justice has available to it all the information necessary to check, where appropriate, that East African Community Law applies to the main proceedings. It may also be in the interests of justice to refer a question for a Preliminary Ruling only after both sides have been heard.

The form of the reference for a Preliminary Ruling

18. The decision by which a National Court or tribunal refers a question to the East African Court of Justice for a Preliminary Ruling may be in any form allowed by National Law as regards procedural steps. It must however be borne in mind that it is

that document which serves as the basis of the proceedings before the Court and that it must therefore contain such information as will enable the latter to give a reply which is of assistance to the National Court. Moreover, it is only the actual Reference for a Preliminary Ruling which is notified to the interested persons entitled to submit observations to the Court, in particular the Partner States and Organs and Institutions of the Community. The Reference should be in English language.

19. The Reference should be drafted simply, clearly and precisely, avoiding superfluous detail.

20. A maximum of about 10 pages is generally sufficient to set out in a proper manner the context of a Reference for a Preliminary Ruling. The order for Reference must be succinct but sufficiently complete and must contain all the relevant information to give the Court and the interested persons entitled to submit observations a clear understanding of the factual and legal context of the main proceedings. In particular, the order for reference must:

    - include a brief account of the subject-matter of the dispute and the relevant findings of fact, or, at least, set out the factual situation on which the question referred is based;

Guidelines on a Reference for Preliminary Ruling set out the tenor of any applicable National provisions and identify, where necessary, the relevant National Case-Law, giving in each case precise Reference (for example, a page of an official journal or specific law report, with any internet reference);

- identify the East African Community Law Provisions relevant to the case as accurately as possible;

- explain the reasons which prompted the National Court to raise the question of the interpretation or validity of the East African Community Law Provisions, and the relationship between those provisions and the National Provisions applicable to the main proceedings;

- include, if need be, a summary of the main relevant arguments of the Parties to the main proceedings;

- in order to make it easier to read and refer to the document, it is helpful if the different points or paragraphs of the order for reference are numbered.

21. Finally, the referring Court may, if it considers itself able, briefly state its view on the answer to be given to the questions referred for a Preliminary Ruling.

22. The question or questions themselves should appear in a separate and clearly identified section of the order for Reference, generally at the beginning or the end. It must be possible to understand them without referring to the statement of the grounds for the Reference, which will however provide the necessary background for a proper assessment.

The effects of the Reference for a Preliminary Ruling on the National Proceedings

23. A Reference for Preliminary Ruling calls for the National Proceedings to be stayed until the East African Court of Justice has given its Ruling.

24. However, the National Court may still order protective measures, particularly in connection with a Reference on determination of validity (see point 15 above).

Costs and Legal aid

25. Preliminary Ruling Proceedings before the East African Court of Justice are free of charge and the Court does not rule on the Costs of the Parties to the main proceedings; it is for the National Court to rule on those Costs.

Guidelines on a Reference for Preliminary Ruling

26. If a Party has insufficient means and where it is possible under National Rules, the National Court may grant that Party legal aid to cover the costs, including those of lawyers' fees, which the Party incurs before the Court.

Communication between the National Court and the East African Court of Justice

27. The order for Reference and the relevant documents (including, where applicable, the case file or a copy of the case file) are to be sent by the National Court directly to the East African Court of Justice, by registered post (addressed to the Registrar of the East African Court of Justice or its sub-registries in the Partner States).

28. The Court Registry will stay in contact with the National Court until a Ruling is given, and will send it copies of the procedural documents.

29. The East African Court of Justice will send its Ruling to the National Court. It would welcome information from the National Court on the action taken upon its Ruling in the National Proceedings and, where appropriate, a copy of the National Court's final decision.

48. Glossary of Legal Terms

In this Users Guide the following words and expressions have the meanings assigned to them respectively in the EAC Treaty, and unless the context otherwise requires:

"Advocate" *[allowed to represent a party before the EACJ]* means an advocate who is entitled to appear before a superior court of any of the Partner States;

"*Affidavit*" means a sworn (or affirmed) statement of evidence, signed by the person giving it;

"Appellate Division" means the Appellate Division of the EACJ established under Article 23 of the Treaty**;**

***"Costs*"** means the expenses incurred in presenting a case – including lawyers' fees, travels, accommodation expenses, telephone, photocopying, etc;

"Counsel to the Community" means the Counsel to the Community provided for under Article 69 of the Treaty;

"Court" means the East African Court of Justice and includes a single Judge exercising any power vested in that Judge sitting alone;

"*Claim*" means the aggrieved Party's Statement of his case;

"Decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to any of the matters in controversy in the suit and may be either preliminary or final;

"Defence" means the Respondent's Statement in defence of the Claim against him;

"Deputy Principal Judge" means the Deputy Principal Judge of the Court [she/he is the Deputy Head of the First Instance Division];

"Ex-Parte" means hearing or determining a case or any part of it with only one of the Parties present;

"First Instance Division" means the First Instance Division of the Court provided for under Article 23 of the Treaty**;**

"Gazette" means the East African Community Gazette;

"In Camera" means proceedings of the Court held in private (i.e. closed to the Public);

"Intervener" means a Partner State, the Secretary General or a resident of a Partner State not a Party to a case before the Court, that is permitted to intervene in a case in accordance with Section VIII] of the Court's Rules;

"Judge" means a Judge of the Court serving on the First Instance Division or the Appellate Division***;***

"Judge Mediator" means a Judge or/panel of Judges of the Court mediating a case before the Court;

*"**Jurisdiction**"* means the mandate or authority of the Court to hear and deliver a case brought before it;

"Lodge" means to file a case or documents in the Registry of the Court;

"National Court" means a court of competent jurisdiction in a Partner State**;**

"Official Holiday" includes the national days of the Partner States as well as New Year's Day, Idd el Fitr, Idd el Haj, Good Friday, Easter Monday, Labour Day, Christmas and Boxing Day;

*"**Pleading**"* includes any document lodged/filed by or on behalf of a party relating to a matter or a case before the Court;

"President" means the President of the Court [the Head of the whole Court];

"Principal Judge" means Principal Judge of the Court [Head of the First Instance Division];

"Registrar" means the Registrar of the Court;

"Registry" means the Court registry (including the Courts' sub registries [located in the Partner States];

"Rules" means the Court Rules of Procedure of the EACJ [Published on 11th April, 2013, as may be amended from time to time];

"Representative" means a person that is empowered to stand or act for another;

"Serve" means to formally avail a document of one party (by handing it over or sending it) to the other Party or Parties involved in a case before the Court;

"Treaty" means the Treaty for the Establishment of the East African Community;

"Vice-President" means the Vice-President of the Court [she/he is the Deputy Head of the whole Court].