

MAKERERE



UNIVERSITY

SCHOOL OF LAW

**ASSESSING THE EXTENT OF UGANDA'S IMPLEMENTATION OF
EAST AFRICAN COMMUNITY TREATY OBLIGATIONS ON CROSS-
BORDER LEGAL PRACTICE**

Omara Tonny

REG NO: 2024/HD09/21805U

STUDENT NO: 2400721805U

SUPERVISOR: DR. BUSINGYE KABUMBA

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE
AWARD OF A MASTER OF LAWS (LLM) OF MAKERERE
UNIVERSITY**

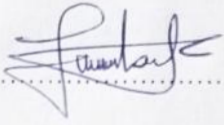
JULY 2026

DECLARATION

I, Omara Tonny , declare that this dissertation is my own original work. It has not been presented to any other university or institution for any academic award. Where other people's work or ideas have been used, they have been duly acknowledged and cited in accordance with the referencing conventions of the Makerere University School of Law.

Student's Name: Omara Tonny

Date: 30th July, 2026

Signature: 

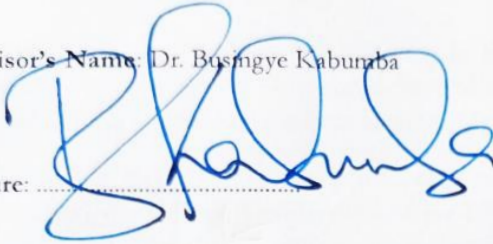
CERTIFICATION

I certify that this dissertation has been prepared and submitted with my approval as the University Supervisor.

Supervisor's Name: Dr. Busingye Kabumba

Date:

Signature:



1st August 2026

DEDICATION

This dissertation is dedicated to my adorable parents, Otyek Richard and Akello Grace whose inspiration, trust and hope energized me on a daily to continue with this research to completion amidst challenges. I am profoundly grateful for your relentless and passionate support that made this journey less stressful, and excelling.

I also dedicate this thesis to my beloved wife, Nakawoya Jesca, who supported my idea of pursuing LLM from inception, encouraged me and never forgot to pray for me. I would not have completed this journey without your support. May the good Lord bless you abundantly.

Lastly, I dedicate this work to my grandfather; Kolario Owoo and grandmother; Awio Lecomancio and my siblings; Owoo Marin, Abia Linda, Ateng Lydia, Aceng Florence, Awor Isabella and Okeng Jonathan, whose blessings and prayers made this dream a reality.

ACKNOWLEDGEMENTS

I thank the almighty God for the grace he bestowed upon me during the time I was pursuing this noble cause. He protected me throughout all the night journeys to and fro Lira (Home) to the University and granted me health though out the course.

I express my sincere and heartfelt gratitude to my supervisor; Dr. Busingye Kabumba for the unwavering guidance offered to me during this exercise. His patience and dedication to supervision of this work made it a reality that I am celebrating today.

My sincere appreciation goes to Dr. Saida Nakito, H/w Mulalira Faisal Umar and Dr. Tajudeen Sanni for the recommendation and moral support that they offered me to pursue this course to completion. I would not have excelled without you.

I also extend my appreciation to my employer, Adar John Patrick, the Managing Partner of M/S J. Adar & Co. Advocates, Lira for recommending me for this course and allowing me to attend my classes and conduct this research amidst my tight work schedules.

I am grateful to all my colleagues who provided the necessary support to this study and the co-operation they exhibited during this study amidst their personal engagements.

Lastly, I appreciate my lecturers, whose invaluable experience and knowledge shaped this study through provision of various reading materials, conducting seminars, conferences among others.

TABLE OF CONTENTS

DECLARATION.....	I
CERTIFICATION.....	II
DEDICATION	III
ACKNOWLEDGEMENTS.....	IV
LIST OF ABBREVIATIONS.....	XI
LIST OF CASES	XII
Uganda	XII
Kenya.....	XII
Nigeria	XII
Tanzania.....	XII
East African Court of Justice.....	XII
European Union	XII
LIST OF STATUTES.....	XIII
Uganda	XIII
Kenya.....	XIII
Tanzania.....	XIII
Rwanda.....	XIII
Burundi.....	XIII
South Sudan.....	XIII
INTERNATIONAL INSTRUMENTS	XIV
ABSTRACT.....	XV
CHAPTER ONE	1
INTRODUCTION	1
1.1 Introduction	1
1.2 Background of the Study.....	3
1.3 Problem Statement.....	9
1.4 Objectives of the Study	10
1.4.1 General Objective	10
1.4.2 Specific Objectives.....	10
1.5 Research Questions.....	10
1.6 Research Methodology	11
1.6.1 Research Approach.....	11
1.6.2 Justification for Doctrinal Methodology	12
1.6.3 Data Sources and Collection	14

1.6.4 Data Analysis	15
1.6.5 Limitations of the Methodology	16
1.7 Scope of the Study	17
1.7.1 Geographical Scope	17
1.7.2 Substantive Scope	17
1.7.3 Temporal Scope	18
1.7.4 Limitations and Delimitations	18
1.8 Significance of the Study	18
1.9 Theoretical Framework	19
1.10 Literature Review	21
1.10.1 International Legal Framework Governing Cross-Border Legal Practice in the EAC	22
1.10.2 Compatibility of Uganda's Domestic Laws with EAC Treaty Obligations	26
1.10.3 Challenges Affecting Uganda's Compliance with Cross-Border Legal Practice Obligations	29
1.10.4 Comparative Analysis and Lessons for Uganda	33
1.10.5 Measures to Regulate Cross-Border Legal Practice	37
1.11 Chapter Outline	40
CHAPTER TWO	42
INTERNATIONAL LEGAL FRAMEWORK GOVERNING CROSS-BORDER LEGAL PRACTICE IN UGANDA AND THE EAC	42
2.1 Introduction	42
2.2 The East African Community Treaty Framework	42
2.2.1 Historical Evolution and Objectives of the EAC	43
2.2.2 Article 126: Harmonization of Legal Training and Certification	44
2.2.3 Article 76: The Common Market Principle	46
2.2.4 Article 104: Free Movement of Persons, Labour, and Services	47
2.3 The EAC Common Market Protocol	48
2.3.1 Overview and Objectives	49
2.4 Annex V: Schedule of Commitments on Progressive Liberalization of Services	50
2.4.1 Structure and Legal Status	50
2.4.2 Comparative Analysis of Partner States' Commitments	51
2.4.3 Implementation Status and Compliance	52
2.5.1 Background and Objectives	54
2.5.2 Substantive Provisions	54
2.5.3 Current Status and Challenges	55

2.6 Mutual Recognition Agreements (MRAs)	56
2.7 Other Relevant EAC Instruments	59
2.8 Additional International Laws	63
2.8.1 WTO General Agreement on Trade in Services (GATS)	63
2.8.2 Pacta Sunt Servanda	65
2.8.3 Treaty Interpretation (Vienna Convention)	66
2.9 Conclusion	68
CHAPTER THREE	70
UGANDA'S DOMESTIC LEGAL FRAMEWORK AND COMPATIBILITY WITH EAC OBLIGATIONS	70
3.1 Introduction	70
3.2 Constitutional Framework	70
3.2.1 The Constitution of Uganda (1995)	71
3.2.2 National Objectives and Directive Principles	72
3.2.3 Ratification and Domestication of Treaties	73
3.3 The Advocates Act (Cap. 295): Statutory Analysis and Judicial Interpretation	74
3.3.1 Historical Background and Evolution	75
3.3.2 Section 13: Admission and Enrolment Requirements	76
3.3.3 Critical Analysis of Restrictive Provisions and the <i>Katungi Tony v Attorney General</i> Case	77
3.3.4 The <i>Andrew Bataamwe v Attorney General</i> Case: Civil Law Barriers and EAC Compliance	81
3.3.5 The Male Mabirizi Application: Discretionary Powers of the Chief Justice and the Scope of Section 13	84
3.3.6 Other Relevant Cases and Emerging Jurisprudence	86
3.4 The Law Council: Regulatory Role and Institutional Barriers	87
3.4.1 Statutory Mandate and Powers	87
3.4.2 Role in Admission and Certification	88
3.4.3 Practice and Patterns	90
3.4.4 Institutional Barriers to Cross-Border Practice	91
3.5 The Law Development Centre Act	92
3.5.1 Role of LDC in Legal Education	92
3.5.2 Recognition of Foreign Diplomas	93
3.5.3 Harmonisation Challenges	94
3.6 Other Relevant Legislation	95
3.6.1 East African Community Act	95
3.6.2 Immigration Act (Cap. 313)	96

3.6.3 Professional Bodies' Regulations	97
3.7 Gap Analysis: Uganda's Compliance Deficit.....	98
3.7.1 Legislative Gaps	98
3.7.2 Policy Gaps	99
3.7.3 Institutional Gaps.....	100
3.7.4 Practice Gaps.....	100
3.8 Conclusion.....	101
CHAPTER FOUR	102
CHALLENGES AND HINDRANCES TO UGANDA'S COMPLIANCE WITH CROSS- BORDER LEGAL PRACTICE OBLIGATIONS	102
4.1 Introduction	102
4.2 Sovereignty and Protectionism Concerns.....	103
4.2.1 The Sovereignty Paradigm	103
4.2.2 Economic Protectionism	104
4.2.3 Professional Protectionism	106
4.2.4 Political Economy of Protectionism	108
4.3 Legal System and Training Differences	110
4.3.1 Common Law versus Civil Law Divide.....	110
4.3.2 The 'Common Law Competence' Argument.....	111
4.3.3 Educational and Professional Qualification Disparities	113
4.3.4 Harmonization Challenges.....	115
4.4 Language and Communication Barriers.....	116
4.4.1 Linguistic Diversity in the EAC.....	116
4.4.2 Language Requirements in Legal Practice	117
4.4.3 Language as Genuine Barrier versus Protectionist Tool.....	118
4.5 Institutional and Administrative Challenges	119
4.5.1 Law Council Institutional Barriers.....	119
4.5.2 Absence of EAC-Level Institutions	120
4.5.3 Information and Awareness Gaps.....	120
4.5.4 Assessment and Recognition Procedures	121
4.6 Political and Legislative Challenges	122
4.6.1 Lack of Political Will	122
4.6.2 Legislative Inertia and Policy Incoherence.....	125
4.6.3 Inter-Agency Coordination Failures.....	127
4.7 Economic and Market Concerns	129
4.7.1 Fear of Aggressive Competition	129

4.7.2 Remuneration and Economic Considerations	131
4.7.3 Economic Development Justifications	133
4.8 Social, Cultural, and Identity Factors	134
4.8.1 Nationalistic Sentiments and Xenophobia	134
4.8.2 Professional Identity and Cultural Differences	136
4.8.3 Limited Regional Identity and Integration	137
4.9 Legal and Constitutional Constraints	138
4.9.1 Supremacy of National Law	139
4.9.2 Constitutional Rights Tensions	140
4.9.3 International Law Obligations and State Responsibility	142
4.10 Conclusion.....	143
CHAPTER FIVE	144
COMPARATIVE ANALYSIS AND LESSONS FOR UGANDA	144
5.1 Introduction	144
5.2 Analysis of Other EAC Partner States.....	144
5.2.1 Kenya	144
5.2.2 Tanzania	147
5.2.3 Rwanda	150
5.2.4 Burundi.....	152
5.2.5 South Sudan	154
5.2.6 Democratic Republic of Congo	155
5.3 International and Regional Comparative Frameworks	156
5.3.1 European Union Model	156
5.3.2 ECOWAS Framework	159
5.3.3 SADC Framework	161
5.4 Lessons from Comparative Analysis and Implications for Uganda	163
5.4.1 Progressive Liberalisation is Both Possible and Effective	163
5.4.2 Recognition Mechanisms Can Be Designed to Protect Quality	164
5.4.3 Institutional Frameworks Must Accompany Legislative Reform	164
5.4.4 Political Will and Enforcement are Critical.....	164
5.4.5 Common Law–Civil Law Diversity is Not an Insurmountable Barrier.....	165
5.5 Conclusion.....	165
CHAPTER SIX.....	167
CONCLUSIONS AND RECOMMENDATIONS.....	167
6.1 Introduction	167

6.2 Conclusions	167
6.2.1 International legal framework on cross-border legal practice	167
6.2.2 Compatibility of Uganda's Domestic Legal Framework with Its EAC Treaty Obligations	168
6.2.3 Challenges and hindrances affecting Uganda's compliance with cross-border legal practice obligations	168
6.2.4 A Comparative analysis of other regional integration frameworks	169
6.3 Recommendations	169
6.3.1 Legislative reform of the Advocates Act	169
6.3.2 Regulatory Modernisation of the Law Council	170
6.3.3 Fast Tracking of the EAC cross-border legal practice bill	170
6.3.4 Institutional capacity building	171
6.3.5 Policy reorientation towards strategic regional engagement	171
6.3.6 Constitutional clarification and strategic litigation	171
6.3.7 Phased implementation	172
6.3.8 Regional cooperation and coordination	172
6.3.9 Monitoring and enforcement mechanisms	172
6.3.10 Professional development and competitiveness enhancement	173
6.4 Areas for further research	173
6.4.1 Impact of liberalisation on access to justice	173
6.4.2 Economic impact on Uganda's legal services market	174
6.4.3 Legal education harmonisation and professional mobility	174
6.4.4 Judicial enforcement by the East African Court of Justice	174
6.4.5 Gendered dimensions of legal services liberalisation	175
BIBLIOGRAPHY	176
Books	176
Chapters in Books	177
Journal Articles	178
Reports	181
Dissertations	182
Websites	182

LIST OF ABBREVIATIONS

EAC	East African Community
EACJ	East African Court of Justice
EU	European Union
ECOWAS	Economic Community of West African States
SADC	Southern African Development Community
GATS	General Agreement on Trade in Services
WTO	World Trade Organization
CJEU	Court of Justice of the European Union
LDC	Law Development Centre
IBA	International Bar Association
CCBE	Council of Bars and Law Societies of Europe
AU	African Union
MRA	Mutual Recognition Agreement
COMESA	Common Market for Eastern and Southern Africa
DRC	Democratic Republic of Congo
ICJ	International Court of Justice
ICCPR	International Covenant on Civil and Political Rights
NGO	Non-Governmental Organisation
OHADA	Organisation for the Harmonisation of Business Law in Africa
VCLT	Vienna Convention on the Law of Treaties

LIST OF CASES

Uganda

Andrew Bataamwe v Attorney General, Miscellaneous Cause 280 of 2019 (High Court of Uganda), 13 May 2020

Katungi Tony v Attorney General, Miscellaneous Cause 204 of 2017 (High Court of Uganda)

Kenya

Francis Muiruri Kimangi v The Council for Legal Education, High Court of Kenya (July 2019) 101.

Nigeria

Stabilini Visinoni Ltd v Mallinson & Partners Ltd [2014] 12 NWLR (Part 1420) 134 (Court of Appeal, Lagos Division).

Shell Nigeria E & P Ltd & 3 Others v. Federal Inland Revenue Service (Unrep. Appeal CA/A/208/2012).

Okafor v Nweke [2007] 10 NWLR (Part 1043).

Tanzania

Mvita Construction Company v Tanzania Harbours Authority, Civil Appeal No 94 of 2001 (Court of Appeal of Tanzania, unreported).

East African Court of Justice

Anyang' Nyong'o v Attorney General of Kenya, EACJ Reference 1 of 2006

James Katabazi and 21 Others v Secretary General of the East African Community and Attorney General of Uganda, EACJ Reference 1 of 2007

Samuel Gatere & 2 Others v Attorney General of Kenya, EACJ Reference 6 of 2020

Samuel Mukira Mobochi v Attorney General of Uganda, EACJ Reference 5 of 2011

European Union

Case 2/74 *Reyners v Belgium* [1974] ECR 631

Case C-55/94 *Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano* [1995] ECR I-4165

LIST OF STATUTES

Uganda

Constitution of the Republic of Uganda, 1995
Advocates Act, Cap 295
Companies Act, Cap 106
East African Community Act, Cap 187
Employment Act, Cap 226
Finance Act, Cap 166
Law Development Centre Act, Cap 251
Uganda Citizenship and Immigration Control Act, Cap 313
Uganda Law Society Act, Cap 305
Uganda Registration Services Bureau Act, Cap 217

Kenya

Advocates Act, Cap 16
Council of Legal Education Act, Cap 16
Law Society of Kenya Act, Cap 18

Tanzania

Advocates Act, Cap 341
Law School of Tanzania Act, No. 5 of 2007
Tanganyika Law Society Act, Cap 307

Rwanda

Law establishing the Institute of Legal Practice and Development (ILPD) and determining its Mission, Organization and Functioning, No. 65 of 2013
Law establishing the Bar Association in Rwanda and Determining its Organization and Functioning, No. 83 of 2013

Burundi

Burundi Bar Association Law, No. 1/17 of 2023

South Sudan

Advocates Act, No. 55 of 2013

INTERNATIONAL INSTRUMENTS

Vienna Convention on the Law of Treaties, adopted 23 May 1969, entered into force 27 January 1980, 1155 UNTS 331

Treaty of the Southern African Development Community, adopted 17 August 1992, entered into force 30 September 1993

Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation, 30 November 1993

Revised Treaty of the Economic Community of West African States, adopted 24 July 1993, entered into force 23 August 1995, 35 ILM 660

General Agreement on Trade in Services, adopted 15 April 1994, entered into force 1 January 1995, 1869 UNTS 183

Uganda Schedule of Specific Commitments, GATS/SC/144, 15 April 1994

Treaty for the Establishment of the East African Community, 30 November 1999

SADC Qualification Framework, adopted 2005

Protocol on the Establishment of the East African Common Market, 2009

East African Community Common Market (Free Movement of Workers) Regulations, Annex II, November 2009

SADC Protocol on Trade in Services, adopted August 2012

Draft Bill on Cross-Border Legal Practice in the East African Community, 2014

Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment, adopted 29 May 1979

Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, Right of Residence and Establishment, adopted 6 July 1985

Supplementary Protocol A/SP.2/5/90 on the Implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment, adopted 29 May 1990

Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C326/47

Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained [1998] OJ L77/36

Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications [2005] OJ L255/22, as amended by Directive 2013/55/EU [2013] OJ L354/132

Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L376/36

ABSTRACT

The East African Community Treaty and the Protocol on the Establishment of the East African Common Market impose binding obligations on Uganda to liberalize cross-border legal practice. Uganda committed to eliminating barriers by 2015, yet remains non-compliant more than a decade beyond that deadline, its Advocates Act continuing to exclude lawyers trained outside Uganda from the Bar. This dissertation critically examines Uganda's implementation failures, analysing their causes and identifying reforms necessary to achieve compliance. Using a doctrinal methodology, the study analyses the EAC Treaty framework, the Common Market Protocol and its Annex V, and Uganda's domestic legal framework, assessing their compatibility with Uganda's regional obligations.

The study finds that non-compliance stems from four interconnected obstacles: political and legislative inertia, economic protectionism, nationalist resistance, and constitutional constraints on treaty domestication. Drawing on comparative analysis of the EU, ECOWAS, and SADC frameworks, the study concludes that Uganda's domestic laws are fundamentally incompatible with its Treaty obligations and recommends a phased programme of legislative, institutional, and policy reforms – including targeted amendments to the Advocates Act, reform of the Law Council's mandate, and strengthened EAC-level enforcement. The obstacles to compliance, while significant, are surmountable, and the benefits of regional legal integration substantially outweigh the costs.

CHAPTER ONE

INTRODUCTION

1.1 Introduction
1.2 Background of the Study
1.3 Problem Statement
1.4 Objectives of the Study
1.5 Research Questions
1.6 Research Methodology
1.7 Scope of the Study
1.8 Significance of the Study
1.9 Theoretical Framework
1.10 Literature Review
1.11 Chapter Outline

1.1 Introduction

The contemporary world is characterized by unprecedented levels of globalization, with profound implications for virtually every facet of human activity.¹ The legal profession, historically one of the most territorially bound and nationally regulated professions, has not been spared. As globalization accelerates, the practice of law is increasingly transcending national boundaries, necessitating new frameworks for the provision of legal services across jurisdictions.² The expansion of international trade and investment has created demand for legal expertise that transcends national boundaries,³ while advancements in information and communication technology have made it feasible for lawyers to provide services remotely.⁴ The increasing harmonization of legal frameworks in various regions has reduced barriers to cross-border legal practice.⁵ Regional economic communities have recognized that the free movement of goods, capital, and services requires corresponding mobility of professionals, including lawyers. The European Union has established comprehensive frameworks for cross-border practice that have served as models for other regions,⁶ while regional bodies in Africa have taken steps toward

¹ K Brown 'Two approaches to the modern reality of temporary cross-border legal practice: the United States and European Community' (2018) 70 *South Carolina Law Review* 343.

² K Brown (n 1) 344-345.

³ C Silver 'Globalization and the US market in legal services – shifting identities' (2007) 31 *Law and Policy in International Business* 1093.

⁴ J Flood 'Megalawyering in the global order: the cultural, social and economic transformation of global legal practice' (1996) 3 *International Journal of the Legal Profession* 169.

⁵ J Lonbay 'Assessing the European market for legal services: developments in the free movement of lawyers in the European Union' (2011) 33 *Fordham International Law Journal* 1629.

⁶ J Lonbay (n 5) 1630-1635.

liberalizing legal services.⁷ The East African Community represents one of the most ambitious regional integration projects in Africa. Established in 1967, the EAC collapsed in 1977 but was revived in 1999.⁸ The EAC currently comprises eight Partner States: Kenya, Tanzania, Uganda, Rwanda, Burundi, South Sudan, the Democratic Republic of Congo, and Somalia.⁹ The Community aims to establish a Customs Union, a Common Market, a Monetary Union, and ultimately a Political Federation.¹⁰ The mobility of legal services is a fundamental requirement for the success of regional integration.¹¹ Without cross-border practice, lawyers cannot adequately serve clients engaged in regional economic activities.¹² Article 126 of the EAC Treaty¹³ obligates Partner States to harmonize their legal training and certification and to establish common syllabi and standards for bar examinations.¹⁴ The Protocol on the Establishment of the East African Common Market, entered into force in 2010, establishes the free movement of goods, persons, labour, services, and capital.¹⁵ Article 2(4) prohibits discrimination based on nationality,¹⁶ while Articles 10, 11, and 16¹⁷ address free movement of workers, mutual recognition of qualifications, and free movement of services.¹⁸ Annex V commits Kenya and Rwanda to eliminating barriers by 2010, while Uganda and Burundi set 2015 as their target date.¹⁹

Despite this comprehensive legal framework, most Partner States have not implemented their commitments. A Bill on Cross-Border Legal Practice presented in 2014 has not been adopted,²⁰ and proposed Mutual Recognition Agreements have failed to materialize.²¹ In 2017, state attorneys general refused to sign the Mutual Recognition Agreement.²² While Kenya, Rwanda, and Burundi have taken some steps, Uganda, Tanzania, South Sudan, and the Democratic

⁷ S Opong 'A regional approach to professional mobility: the ECOWAS regime and the extent of its success' (2014) 38 *Fordham International Law Journal* 2195.

⁸ J Gathii 'African regional trade agreements as flexible legal regimes' (2010) 35 *North Carolina Journal of International Law and Commercial Regulation* 571 at 586.

⁹ EAC Secretariat 'Overview of EAC' <https://www.eac.int/overview-of-eac> (accessed 15 December 2025).

¹⁰ Art 5(2) of the Treaty for the Establishment of the East African Community, 1999.

¹¹ BK Twinomugisha 'Cross border legal practice in an integrated East African Community' (2011) 18 *The East African Lawyer* 3.

¹² As above.

¹³ Art 126(1) of the Treaty for the Establishment of the East African Community, 1999.

¹⁴ As above, Art 126(2).

¹⁵ Art 2 of the Protocol on the Establishment of the East African Common Market, 2009.

¹⁶ As above, Art 2(4).

¹⁷ As above, Arts 10 & 16.

¹⁸ As above, Art 11.

¹⁹ BK Twinomugisha (n 11) 3.

²⁰ H Trouille & M Binda 'The evolution of the free movement of lawyers in the European Union and the East African Community compared: achievements and challenges in implementing integration freedoms in England and Wales and Rwanda' in H Trouille, G Ndayisaba & J Trouille (eds) *Africa, the European Union and China towards a new global cooperation?* (2020) 92.

²¹ H Trouille & M Binda (n 20).

²² As above.

Republic of Congo maintain restrictive frameworks.²³ Uganda committed to eliminate barriers by 2015,²⁴ but its Advocates Act contains provisions that exclude lawyers trained in other EAC Partner States.²⁵ In *Katungi Tony v Attorney General*,²⁶ the High Court held that the Law Council's failure to recognize the applicant's qualification from Kenya violated Article 126(2) of the EAC Treaty.²⁷ In *Andrew Bataamwe v Attorney General*,²⁸ a lawyer trained in Rwanda was rejected on grounds that Rwanda's legal system differs from Uganda's common law system, and this case was referred to the East African Court of Justice.²⁹ Restrictions on cross-border legal practice have implications for human rights, including the right to work and freedom of movement.³⁰ This research addresses a critical gap by providing comprehensive analysis of Uganda's implementation of its EAC Treaty obligations regarding cross-border legal practice.

1.2 Background of the Study

The East African Community originated on 6 December 1967, when Kenya, Tanzania, and Uganda signed the Treaty for East African Co-operation.³¹ This built on decades of cooperation among the three territories during the colonial period.³² That cooperation included common institutions such as the East African High Commission, established in 1948, and the East African Common Services Organization, which operated from 1961 to 1967.³³ The 1967 Community operated common services including a customs union, a common currency, and joint corporations in aviation, harbours, posts and telecommunications, and railways.³⁴ It also maintained the East African Court of Appeal as the highest appellate court for the three states, alongside an East African Legislative Assembly empowered to legislate on regional matters.³⁵

²³ JB Habimana 'The shadow of cross border legal practice in the East African Community' (2024) 5 *Journal of Contemporary Research in Social Sciences* 169.

²⁴ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

²⁵ Sec 13(8) of the Advocates Act, Cap 295 (Uganda).

²⁶ *Katungi Tony v Attorney General*, Miscellaneous Cause 204 of 2017 (High Court of Uganda).

²⁷ As above.

²⁸ *Andrew Bataamwe v Attorney General*, Miscellaneous Cause 280 of 2019 (High Court of Uganda), 13 May 2020.

²⁹ E Kagire 'Uganda dragged to regional court for blocking Rwanda-trained lawyers' KT Press, 1 July 2020, <https://www.ktpress.rw/2020/07/uganda-dragged-to-regional-court-for-blocking-rwanda-trained-lawyers/> (accessed 27 October 2024).

³⁰ Art 40 of the Constitution of the Republic of Uganda, 1995.

³¹ R Himbara 'Domesticating ideologies and building capabilities: structural adjustment in Tanzania and Uganda 1984-1994' (1997) 12 *Canadian Journal of Development Studies* 329.

³² MM Munya 'The emergence and unravelling of the East African Community (1967-1977): implications for the revived East African Community' (2009) 26 *Development Policy Review* 17.

³³ A Hazlewood 'The end of the East African Community: what are the lessons for regional integration schemes?' (1979) 18 *Journal of Common Market Studies* 40.

³⁴ A Hazlewood (n 33) 41-42.

³⁵ MM Munya (n 32) 18.

The University of East Africa, with constituent colleges in each state, provided tertiary education under a common framework.³⁶

The Community ultimately collapsed under accumulated strain. Political differences between Tanzania's socialist orientation under Julius Nyerere and Kenya's more capitalist approach under Jomo Kenyatta proved difficult to reconcile.³⁷ Economic disparities, with Kenya benefiting disproportionately from shared institutions, generated resentment in Tanzania and Uganda.³⁸ Relations deteriorated further following Idi Amin's coup in Uganda in 1971.³⁹ The Community also lacked effective mechanisms for resolving disputes between Partner States.⁴⁰ These accumulated tensions culminated in the collapse of the EAC in 1977 and the division of its assets and liabilities among the three states.⁴¹

Dissolution fragmented common institutions. The East African Court of Appeal, which had developed a shared jurisprudence across the three territories, was replaced by separate national courts of appeal.⁴² The University of East Africa was similarly split into three independent national universities, each developing its own curriculum and standards.⁴³ These developments entrenched national approaches to legal education and professional regulation, creating barriers that would later complicate re-integration. Renewed cooperation became possible from the late 1980s. The end of the Cold War reduced ideological tensions, while structural adjustment programmes promoted market-oriented economic policies across the region.⁴⁴ Leadership changes, particularly in Tanzania and Uganda, brought leaders more committed to regional cooperation.⁴⁵ The emergence of successful regional integration models elsewhere in Africa, particularly the Southern African Development Community, also provided inspiration.⁴⁶

This culminated in the signing of the Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation in November 1993.⁴⁷ The Agreement committed Kenya, Tanzania, and Uganda to exploring areas for future cooperation and created

³⁶ As above.

³⁷ A Hazlewood (n 33) 43-45.

³⁸ As above, 46-48.

³⁹ MM Munya (n 32) 20.

⁴⁰ A Hazlewood (n 33) 49.

⁴¹ As above, 50.

⁴² JWK Mugambwa 'A comparative analysis of the transformation of East African legal systems since independence' (2007) 11 *Electronic Journal of Comparative Law* 1 at 5.

⁴³ MM Munya (n 32) 21.

⁴⁴ N Mwase & BJ Ndulu 'Tanzania: explaining four decades of episodic growth' in BJ Ndulu & SA O'Connell (eds) *The political economy of economic growth in Africa, 1960-2000* (2008) 426.

⁴⁵ R Himbara (n 31) 330.

⁴⁶ J Gathii (n 8) 590.

⁴⁷ Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation, 30 November 1993.

institutional structures to coordinate joint activities.⁴⁸ These efforts led to the Treaty for the Establishment of the East African Community, signed on 30 November 1999 in Arusha, Tanzania.⁴⁹ The Treaty entered into force on 7 July 2000, formally marking the Community's rebirth.⁵⁰

The revived Treaty adopted a staged approach to integration, progressing from a Customs Union to a Common Market, then a Monetary Union, and ultimately a Political Federation.⁵¹ It also established more robust institutions, including the East African Court of Justice to adjudicate Treaty disputes and a revived East African Legislative Assembly with enhanced powers.⁵² The Community has expanded considerably since its revival. Rwanda and Burundi, both former Belgian colonies with civil law systems, acceded on 18 June 2007, introducing the Community's first non-Anglophone members.⁵³ South Sudan joined on 2 March 2016, becoming the sixth Partner State.⁵⁴ The Democratic Republic of Congo was admitted on 29 March 2022, followed by Somalia, bringing total membership to eight.⁵⁵

The Treaty serves as the Community's constitutional document, establishing its objectives, principles, and institutions.⁵⁶ It also asserts the Treaty's supremacy over national laws on matters pertaining to its implementation, although this provision's practical effect remains contested given incomplete domestic incorporation.⁵⁷ At the same time, the Treaty preserves Partner States' sovereignty, recognising that integration must proceed through voluntary cooperation rather than supranational imposition.⁵⁸ Protocols supplement, amend, or qualify the Treaty.⁵⁹ The most significant for this study is the Protocol on the Establishment of the East African Common Market, adopted in 2009 and entered into force on 1 July 2010.⁶⁰ Additional protocols govern the Customs Union, the Monetary Union, and the East African Court of Justice, among other areas.⁶¹ These protocols bind Partner States upon entry into force, requiring implementation through domestic legislation and administrative action.⁶²

⁴⁸ MM Munya (n 32) 22.

⁴⁹ Treaty for the Establishment of the East African Community, 30 November 1999.

⁵⁰ Art 150 of the Treaty for the Establishment of the East African Community, 1999.

⁵¹ Art 5(2) of the Treaty for the Establishment of the East African Community, 1999.

⁵² Arts 9, 23 & 27 of the Treaty for the Establishment of the East African Community, 1999.

⁵³ EAC 'History of the EAC' <https://www.eac.int/eac-history> (accessed 15 December 2025).

⁵⁴ As above.

⁵⁵ As above.

⁵⁶ Art 1 of the Treaty for the Establishment of the East African Community, 1999.

⁵⁷ Art 8(1)(c) of the Treaty for the Establishment of the East African Community, 1999.

⁵⁸ Preamble & Art 6(a) of the Treaty for the Establishment of the East African Community, 1999.

⁵⁹ Art 151 of the Treaty for the Establishment of the East African Community, 1999.

⁶⁰ Protocol on the Establishment of the East African Common Market, 2009.

⁶¹ EAC 'Protocols' <https://www.eac.int/documents/category/protocols> (accessed 15 December 2025).

⁶² Art 150 of the Treaty for the Establishment of the East African Community, 1999.

Each Partner State nonetheless continues to follow its own legal system, generally reflecting colonial heritage. Kenya, Tanzania, Uganda, and South Sudan operate common law systems inherited from British colonial rule.⁶³ Rwanda and Burundi inherited civil law systems from Belgian colonial administration, though Rwanda has since incorporated elements of common law.⁶⁴ The Democratic Republic of Congo similarly operates a civil law system derived from Belgian rule.⁶⁵ These divergent legal traditions create significant challenges for cross-border legal practice. Article 126 of the Treaty is the principal foundation for cross-border legal practice. Article 126(1) provides that Partner States undertake to harmonize their legal training and certification and to promote standardisation of court judgments.⁶⁶ Article 126(2) goes further, requiring Partner States to take steps toward establishing a common syllabus for training lawyers and common standards for bar examinations.⁶⁷ Article 76 establishes the Common Market as a pillar of EAC integration, committing Partner States to free movement of goods, persons, labour, and services.⁶⁸ Article 104 further elaborates on the free movement of persons, labour, and services.⁶⁹

The 2009 Common Market Protocol gave more detailed and binding form to these commitments, providing a comprehensive framework for liberalising the movement of goods, persons, labour, services, and capital.⁷⁰ Article 2(4) establishes the principle of non-discrimination, requiring Partner States to remove existing restrictions and refrain from new ones based on nationality or residence.⁷¹ Article 5(2)(c) commits Partner States to harmonising labour mobility policies, programmes, and laws.⁷² Article 10 defines and protects the free movement of workers, including the right to accept employment and reside in another Partner State for that purpose.⁷³ Article 11 commits Partner States to developing common schemes for the recognition of academic and professional qualifications.⁷⁴ Article 16 protects the free movement of services supplied across Partner State borders, including legal services.⁷⁵ Annex V, the Schedule of Commitments on the Progressive Liberalization of Services, translates these principles into state-

⁶³ JWK Mugambwa (n 42) 2-4.

⁶⁴ JWK Mugambwa (n 42) 12-15.

⁶⁵ E Joireman 'Inherited legal systems and effective rule of law: Africa and the colonial legacy' (2001) 39 *Journal of Modern African Studies* 571 at 580.

⁶⁶ Art 126(1) of the Treaty for the Establishment of the East African Community, 1999.

⁶⁷ As above, Art 126(2).

⁶⁸ As above, Art 76.

⁶⁹ As above, Art 104.

⁷⁰ Protocol on the Establishment of the East African Common Market, 2009.

⁷¹ As above, Art 2(4).

⁷² As above, Art 5(2)(c).

⁷³ Art 10 of the Protocol on the Establishment of the East African Common Market, 2009.

⁷⁴ As above, Art 11.

⁷⁵ As above, Art 16.

specific timelines.⁷⁶ Kenya and Rwanda committed to full liberalisation of legal services by 2010.⁷⁷ Burundi and Uganda set 2015 as their target date.⁷⁸ Tanzania, by contrast, made no commitment regarding legal services at all.⁷⁹ These differentiated commitments reflect underlying anxieties: smaller markets feared domination by Kenya's more developed legal sector.⁸⁰ Common law states also raised concerns about the compatibility of civil-law training with common law practice.⁸¹

Implementation machinery has lagged behind these commitments. The 2009 Free Movement of Workers Regulations created general procedures for labour mobility relevant to lawyers taking up employment in another Partner State.⁸² A 2011 draft Mutual Recognition Agreement was intended to extend to legal services a model already used in other professions.⁸³ Accountants, for instance, have an operational mutual recognition agreement allowing them to practise across EAC borders.⁸⁴ Similar arrangements exist for engineers and architects.⁸⁵ When Partner States' attorneys general met in 2017 to consider signing the legal services MRA, concerns about the appropriate signatories prevented agreement.⁸⁶ There were also fears that Partner States lacked the institutional capacity to assess foreign qualifications and discipline cross-border practitioners.⁸⁷ Several states had also not yet enacted national legislation implementing the Common Market Protocol, creating a legal vacuum.⁸⁸ No further progress has been made since.

A more ambitious initiative, the 2014 Draft Bill on Cross-Border Legal Practice, would have created a comprehensive framework for cross-border practice at the EAC level.⁸⁹ The Bill defined cross-border legal practice broadly, to include both physical presence and remote service provision.⁹⁰ It articulated objectives including promoting cross-border practice, harmonising legal training, and facilitating free movement of legal services.⁹¹ To achieve these, it proposed

⁷⁶ As above, Annex V.

⁷⁷ As above.

⁷⁸ As above.

⁷⁹ As above.

⁸⁰ J Musoke 'Trends in Kenya's legal services export to East Africa: examining the state of integration of EAC legal services industry' (2019) 7 *Strathmore Law Review* 91.

⁸¹ H Rubashasa 'Cross border legal practice in East Africa: a civil law perspective' (2011) 18 *The East African Lawyer* 25.

⁸² East African Community Common Market (Free Movement of Workers) Regulations, Annex II, November 2009.

⁸³ H Trouille & M Binda (n 20) 92.

⁸⁴ East African Community 'Mutual recognition agreement for registered and certified public accountants' <https://www.eac.int/documents/category/trade> (accessed 15 December 2024).

⁸⁵ H Trouille & M Binda (n 20) 90.

⁸⁶ As above, 92.

⁸⁷ As above.

⁸⁸ As above.

⁸⁹ Draft Bill on Cross-Border Legal Practice in the East African Community, 2014.

⁹⁰ Art 2 of the Draft Bill on Cross-Border Legal Practice in the East African Community, 2014.

⁹¹ As above, Art 3.

establishing an EAC Law Council operating alongside national bar associations and law councils.⁹² This Council would have had regulatory, advisory, and disciplinary functions over cross-border practitioners.⁹³ Part III of the Bill provided for certification of advocates by national law councils.⁹⁴ Section 16 required cross-border practitioners to comply with the laws of the host Partner State.⁹⁵ Despite this detail, the Bill has never been adopted, for reasons resembling those that stalled the MRA: capacity concerns, fears about domestic market impact, and insufficient political will.⁹⁶

Article 5(2)(a) of the Common Market Protocol establishes equal treatment as the guiding principle, requiring Partner States to refrain from discriminating against nationals of other Partner States.⁹⁷ In practice, however, only three of the seven Partner States have taken significant steps to implement this principle in legal services: Kenya, Rwanda, and Burundi.⁹⁸ Kenya has amended its Advocates Act to permit admission of EAC nationals, although certain conditions still limit access.⁹⁹ Rwanda, having committed to full liberalisation by 2010, has taken steps to implement that commitment.¹⁰⁰ Its legal framework explicitly provides for equal treatment of EAC nationals in admission to the bar.¹⁰¹ Burundi has similarly moved toward recognising EAC qualifications, though implementation details remain less clear than in Kenya and Rwanda.¹⁰²

By contrast, Tanzania, having made no Annex V commitment, maintains legislation restricting admission to Tanzanian citizens.¹⁰³ Uganda, despite its 2015 commitment, continues to maintain Advocates Act provisions that exclude lawyers trained in civil law jurisdictions and constrain even common law EAC nationals.¹⁰⁴ South Sudan has not yet developed implementing legislation for the Common Market Protocol and continues to apply restrictive admission procedures inherited from its period as part of Sudan.¹⁰⁵ The Democratic Republic of Congo, the most recent member, has similarly not yet aligned its legal framework with EAC obligations.¹⁰⁶ Even among common law states, mutual recognition remains incomplete, with lawyers facing

⁹² As above, Art 4(1).

⁹³ As above, Art 4.

⁹⁴ As above, Part III.

⁹⁵ As above, Sec 16.

⁹⁶ JB Habimana (n 23) 171.

⁹⁷ Art 5(2)(a) of the Protocol on the Establishment of the East African Common Market, 2009.

⁹⁸ JB Habimana (n 23) 169-170.

⁹⁹ J Musoke (n 80) 95.

¹⁰⁰ H Trouille & M Binda (n 20) 95-98.

¹⁰¹ As above.

¹⁰² JB Habimana (n 23) 170.

¹⁰³ As above, 175-176.

¹⁰⁴ Sec 13(8) of the Advocates Act, Cap 295 (Uganda).

¹⁰⁵ JB Habimana (n 23) 177.

¹⁰⁶ As above, 178.

administrative and regulatory barriers when attempting to practise across borders.¹⁰⁷ This unevenness is compounded by the presence of major international law firms, mainly from the United Kingdom and United States, operating in Nairobi and Kampala.¹⁰⁸ These firms typically handle high-value corporate work while employing local lawyers for matters requiring court appearance, and domestic practitioners argue that they extract disproportionate value from local markets.¹⁰⁹ Some commentators characterise this arrangement as a form of neocolonial exploitation of African legal talent.¹¹⁰

It is against this background of ambitious commitments, partial implementation, and persistent restriction that Uganda's position must be understood. Uganda occupies a middle ground: more committed than Tanzania, which made no Annex V pledge at all, but less progressive than Rwanda and Kenya, which moved early to liberalize. Uganda's missed 2015 deadline, and its continued maintenance of restrictive admission rules, raise the questions that this study sets out to answer.

1.3 Problem Statement

Uganda, as a Partner State to the Treaty Establishing the East African Community, is bound under Article 126 to harmonize legal training and certification and to promote standardisation of court judgments, including establishing a common syllabus and common bar examination standards. Under the EAC Common Market Protocol, Uganda further committed to free movement of labour, persons, goods, services, and capital, and to removing barriers and discrimination based on nationality or residence. Despite these obligations, and Uganda's specific Annex V commitment to eliminate barriers to cross-border legal practice by 2015, Uganda has not embraced cross-border legal practice as expected. The Advocates Act continues to exclude lawyers trained in other Partner States, particularly civil law jurisdictions such as Rwanda and Burundi, and even constrains common law lawyers qualified outside Uganda. This incompatibility has been challenged in *Katungi Tony v Attorney General* and *Andrew Bataamwe v Attorney General*, confirming the gap between Uganda's domestic framework and its EAC obligations. Nearly a decade after the missed deadline, and absent implementing legislation for the Common Market Protocol, this persistent non-compliance raises critical questions about the barriers to implementation. This study undertakes comprehensive research to analyse Uganda's implementation gap, identify the legal, institutional, political, and economic challenges preventing

¹⁰⁷ BK Twinomugisha (n 11) 5.

¹⁰⁸ JB Habimana (n 23) 180.

¹⁰⁹ As above.

¹¹⁰ As above.

compliance, and propose practical recommendations for alignment with regional commitments while addressing legitimate concerns about professional standards and the domestic market.

1.4 Objectives of the Study

This section outlines the objectives that guide this research study. The objectives are divided into one general objective that articulates the overarching purpose of the research, and four specific objectives that break down this purpose into concrete, achievable research goals corresponding to the research questions.

1.4.1 General Objective

The general objective of this study is to analyse the extent of Uganda's implementation of the East African Treaty obligation on cross-border legal practice.

1.4.2 Specific Objectives

The specific objectives of this study are:

- a) To identify the international legal framework governing cross-border legal practice in Uganda in a bid to integrate with other EAC Partner States.
- b) To analyse the extent to which Uganda's domestic laws are compatible with its East African Treaty obligations on cross-border legal practice.
- c) To identify challenges and hindrances that affect Uganda's compliance with its obligation on cross-border legal practice compared to other EAC states.
- d) To undertake comparative analysis of other regional integration frameworks and draw lessons applicable to Uganda's implementation of cross-border legal practice.
- e) To recommend appropriate measures to regulate cross-border legal practice in Uganda.

1.5 Research Questions

The research questions that this study sought to answer correspond to the specific objectives outlined above and are formulated as follows:

1. What international legal framework governs cross-border legal practice in Uganda in a bid to integrate with other EAC states?
2. To what extent are Uganda's domestic laws compatible with its East African Treaty obligations on cross-border legal practice?
3. What are the challenges and hindrances in Uganda that affect compliance with its obligation on cross-border legal practice compared to other EAC states?

4. What comparative lessons can Uganda draw from other regional integration frameworks regarding implementation of cross-border legal practice?
5. What measures can be taken to regulate cross-border legal practice in Uganda?

1.6 Research Methodology

The methodology adopted for this research was critical to ensuring rigorous analysis and credible findings. This section outlines the research approach, justifies the methodological choices, describes data sources and collection procedures, explains analytical techniques, and acknowledges limitations. The methodology is designed to answer the research questions effectively while maintaining appropriate academic standards.

1.6.1 Research Approach

This study adopted a doctrinal legal research methodology as its primary approach. Doctrinal research, as defined by Hutchinson, is research that provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty, and predicts future developments.¹¹¹ The doctrinal approach is considered the quintessential form of legal research and remains the most widely used methodology in legal scholarship globally.¹¹² Terry Hutchinson further elaborates that doctrinal research involves rigorous analysis and creative synthesis of legal principles derived from primary legal sources, including legislation, case law, and treaties, as well as secondary sources such as academic commentary, to solve legal problems or explain legal phenomena.¹¹³

The choice of doctrinal methodology is particularly appropriate for this research given its focus on analyzing legal frameworks, assessing compatibility between international obligations and domestic law, and proposing legal reforms. The research questions formulated above are fundamentally legal in nature, requiring interpretation of treaty provisions, analysis of statutory language, examination of judicial decisions, and comparative assessment of legal regimes across multiple jurisdictions. These tasks fall squarely within the domain of doctrinal legal research.¹¹⁴

The doctrinal approach aligns with the objectives of this study in several specific ways. First, the study's first objective requires identification and analysis of the international legal framework governing cross-border legal practice in the EAC. This task inherently requires doctrinal analysis of treaty provisions, protocols, and related instruments to determine their meaning, scope, and

¹¹¹ T Hutchinson *Researching and writing in law* (2006) 9.

¹¹² As above, 10.

¹¹³ As above, 11-12.

¹¹⁴ T Hutchinson 'The doctrinal method: incorporating interdisciplinary methods in reforming the law' (2015) 3 *Erasmus Law Review* 130.

implications for Uganda.¹¹⁵ Second, the study's second objective requires assessment of compatibility between Uganda's domestic laws and its international obligations. This compatibility analysis is fundamentally a doctrinal exercise, requiring comparison of legal texts, identification of areas of divergence, and determination of whether domestic law satisfies international legal requirements.¹¹⁶ Third, while the third objective examines challenges beyond purely legal factors, understanding these challenges requires foundational doctrinal analysis of what the law requires and where gaps exist. Fourth, the fourth objective calls for legal reform recommendations, which must be grounded in rigorous doctrinal analysis of both the problems in the existing framework and the elements of effective legal solutions.¹¹⁷

1.6.2 Justification for Doctrinal Methodology

The selection of doctrinal methodology over alternative approaches is justified by multiple considerations. First, doctrinal research is the methodology best suited to answering the types of questions posed in this study. Questions about what the law requires, whether domestic law is compatible with international obligations, and what legal reforms are necessary are inherently doctrinal questions that require the analytical tools and techniques of doctrinal legal research.¹¹⁸ Alternative methodologies such as empirical social science approaches, while valuable for certain types of legal research, would not provide the depth of legal analysis necessary to answer these questions adequately.

Second, the nature of the research problem demands doctrinal methodology. The central concern of this study is Uganda's non-implementation of legal obligations regarding cross-border legal practice. Understanding this problem requires detailed analysis of what these obligations entail, how they are reflected (or not reflected) in domestic law, and what legal changes are necessary for compliance. These are questions that demand the close reading of legal texts, the careful comparison of legal regimes, and the systematic identification of areas of divergence that characterize doctrinal research.¹¹⁹

Third, doctrinal methodology is well-established in comparative legal research, which forms a significant component of this study. The comparison of legal frameworks across the seven EAC Partner States requires the analytical techniques of comparative law, which is fundamentally a

¹¹⁵ M McConville & WH Chui *Research methods for law* (2007) 19-21.

¹¹⁶ HW Arthurs 'Law and learning in an era of globalization' (2009) 10 *German Law Journal* 629 at 635.

¹¹⁷ M Van Hoecke 'Legal doctrine: which method(s) for what kind of discipline' in M Van Hoecke (ed) *Methodologies of legal research: which kind of method for what kind of discipline?* (2011) 1.

¹¹⁸ T Hutchinson (n 114) 131.

¹¹⁹ As above, 132-133.

doctrinal enterprise.¹²⁰ Comparative legal research involves examining legal rules and institutions across different jurisdictions, identifying similarities and differences, and explaining the reasons for divergence. This type of analysis requires the close attention to legal texts, the understanding of different legal traditions, and the ability to synthesize information across multiple legal systems that are hallmarks of doctrinal research.¹²¹

Fourth, the doctrinal approach has proven effective in previous research on related topics. Numerous scholarly works on cross-border legal practice in the EAC and other regional contexts have employed doctrinal methodology to analyze legal frameworks, assess implementation, and propose reforms.¹²² The success of these studies in advancing understanding and informing policy debate validates the choice of doctrinal methodology for this research. The extensive citation of doctrinal legal research in policy documents, court decisions, and legislative debates demonstrates the practical impact and policy relevance of this methodological approach.¹²³

Fifth, doctrinal methodology allows for the integration of comparative insights and international best practices. By examining legal frameworks in the European Union, ECOWAS, SADC, and other regions, this study can identify approaches that have proven effective in facilitating cross-border legal practice.¹²⁴ The doctrinal approach provides the tools for analyzing these foreign legal frameworks, assessing their transferability to the EAC context, and adapting them to Uganda's specific circumstances. This comparative dimension enriches the analysis and enhances the practical utility of the recommendations.

Sixth, doctrinal research is particularly appropriate for research intended to influence legal reform. The recommendations emerging from this study are intended to inform legislative amendments, institutional reforms, and policy changes. For these recommendations to be credible and useful, they must be grounded in rigorous legal analysis that demonstrates understanding of existing legal frameworks, identifies specific deficiencies, and proposes solutions that are legally sound and practically implementable.¹²⁵ Doctrinal methodology provides the analytical foundation necessary for developing reform recommendations that will be taken seriously by policymakers, legislators, and other stakeholders.

Finally, while this study is primarily doctrinal, it recognizes that full understanding of non-implementation requires consideration of factors beyond purely legal analysis. The third

¹²⁰ E Özüçü 'Developing comparative law' in E Özüçü & D Nelken (eds) *Comparative law: a handbook* (2007) 43.

¹²¹ K Zweigert & H Kötz *An introduction to comparative law* (1998) 33-47.

¹²² BK Twinomugisha (n 11) 3-10; H Rubashasa (n 81) 25-32; JB Habimana (n 23) 169-182.

¹²³ *Katungi Tony v Attorney General* (n 26) (citing academic literature extensively).

¹²⁴ J Lonbay (n 5) 1640-1650; S Oppong (n 7) 2210-2230.

¹²⁵ T Hutchinson (n 111) 15-16.

objective, which examines challenges and hindrances to compliance, necessarily considers political, economic, institutional, and social factors. However, even this analysis is anchored in legal analysis, as it sought to understand why legal obligations have not been translated into legal and institutional reality. The doctrinal framework provides the structure within which these broader factors can be examined and understood in relation to the legal implementation challenge.¹²⁶

1.6.3 Data Sources and Collection

Consistent with doctrinal methodology, this research relied primarily on legal sources, both primary and secondary. Primary sources include treaties and international instruments, particularly the Treaty for the Establishment of the East African Community and the Protocol on the Establishment of the East African Common Market, along with their various annexes and supplementary instruments.¹²⁷ National legislation from Uganda and other EAC Partner States constitutes another critical category of primary sources, including the Advocates Act and related statutes governing the legal profession in each jurisdiction.¹²⁸ Case law from national courts in EAC states and from the East African Court of Justice provides authoritative interpretation of these legal instruments and illustrates how legal frameworks have been applied in practice.¹²⁹

Secondary sources include academic books and monographs on regional integration, cross-border legal practice, professional services regulation, and related topics.¹³⁰ Peer-reviewed journal articles from law reviews, international law journals, and regional studies journals provide scholarly analysis and commentary.¹³¹ Conference papers, working papers, and reports from international organizations, including the EAC Secretariat, African Union, and development partners, offer additional insights and empirical information.¹³² This research also draws on comparative materials from other regions, particularly the European Union, to understand international best practices and lessons learned.¹³³

¹²⁶ I Dobinson & F Johns 'Legal Research as Qualitative Research' in M McConville & WH Chui *Research Methods for Law* (2017) 18-45.

¹²⁷ Treaty for the Establishment of the East African Community, 1999; Protocol on the Establishment of the East African Common Market, 2009.

¹²⁸ Advocates Act, Cap 295 (Uganda); Advocates Act, Cap 16 (Kenya); Advocates Act, Cap 341 (Tanzania).

¹²⁹ *Katungi Tony v Attorney General* (n 26); *Andrew Bataamwe v Attorney General* (n 28).

¹³⁰ K Zweigert & H Kötz (n 152); M Van Hoecke (n 148).

¹³¹ BK Twinomugisha (n 11); H Rubashasa (n 81); JB Habimana (n 23); H Trouille & M Binda (n 20).

¹³² EAC Secretariat 'EAC Development Strategy 2016-2021' (2016); African Union 'Agenda 2063: the Africa we want' (2015).

¹³³ J Lonbay (n 5); LS Terry 'An introduction to the European Community's legal ethics code part I: an analysis of the CCBE Code of Conduct' (1993) 7 *Georgetown Journal of Legal Ethics* 1.

Data collection involves systematic review of these sources through multiple channels. Legal databases provided access to treaty texts, legislation, and case law.¹³⁴ Academic databases and library resources provided access to scholarly literature. The EAC Secretariat website and publications provide official documents and reports. Where necessary, official requests are made to relevant institutions for documents not publicly available. The comprehensive review of these sources ensures that the analysis is grounded in authoritative legal materials and informed by the best available scholarly commentary.

1.6.4 Data Analysis

The analysis of collected data follows established methods of doctrinal legal research. Textual analysis involves close reading of legal texts to determine their meaning, examining language, structure, and context to arrive at sound interpretations of provisions.¹³⁵ This includes analysis of treaty provisions using principles of treaty interpretation codified in the Vienna Convention on the Law of Treaties, and statutory interpretation using canons of construction applicable in the relevant jurisdictions.¹³⁶

Comparative analysis involves systematic comparison of legal frameworks across jurisdictions, identifying similarities and differences, and explaining reasons for divergence.¹³⁷ This includes comparison of legislative provisions, regulatory frameworks, institutional arrangements, and judicial approaches across the seven EAC Partner States. The comparative analysis extends to examination of legal frameworks in other regional integration contexts, particularly the European Union, to identify approaches that might be adapted to the EAC context.¹³⁸

Doctrinal synthesis involves identifying legal principles from multiple sources, reconciling apparently conflicting provisions, and constructing coherent frameworks from disparate materials.¹³⁹ This includes synthesizing treaty provisions, statutory requirements, and judicial interpretations into a comprehensive understanding of Uganda's legal obligations and the extent of domestic compliance. Critical analysis involves evaluating the adequacy of existing legal frameworks, identifying gaps and inconsistencies, assessing the effectiveness of legal rules in

¹³⁴ Uganda Legal Information Institute; Commonwealth Legal Information Institute; University library databases; LexisNexis; Westlaw.

¹³⁵ T Hutchinson (n 111) 28-35.

¹³⁶ Vienna Convention on the Law of Treaties, adopted 23 May 1969, entered into force 27 January 1980, 1155 UNTS 331, arts 31-33.

¹³⁷ K Zweigert & H Kötz (n 121) 33-47.

¹³⁸ As above.

¹³⁹ T Hutchinson (n 111) 36-42.

achieving stated objectives, and critiquing interpretations or approaches that appear problematic.¹⁴⁰

The analysis throughout maintains appropriate academic rigor, including careful citation of all sources, acknowledgment of conflicting interpretations or viewpoints, recognition of limitations in the analysis, and clear distinction between descriptive analysis of what the law is and normative argument about what the law should be.¹⁴¹ The analytical process is transparent and replicable, allowing readers to follow the reasoning and, if they wish, to challenge conclusions based on alternative interpretations of the sources.

1.6.5 Limitations of the Methodology

While doctrinal methodology is well-suited to this research, it has inherent limitations that must be acknowledged. Doctrinal research focuses primarily on legal texts and may not fully capture the practical realities of how law operates in practice.¹⁴² While this study examines case law and institutional practices to the extent these are documented, there may be informal practices, administrative obstacles, or implementation challenges that are not reflected in formal legal sources. The study acknowledges this limitation and, where possible, draws on secondary sources that describe practical experiences to supplement the formal legal analysis.¹⁴³

Additionally, doctrinal research is necessarily limited by the availability and accessibility of legal sources. While the major legal instruments governing cross-border legal practice in the EAC are publicly available, some subsidiary instruments, internal policies, and administrative practices may not be publicly documented. This limitation is partially addressed by examining court decisions that may reference such practices and by consulting scholarly literature that may discuss unpublished materials. However, there may remain aspects of the implementation challenge that are not fully captured due to limitations in source availability.¹⁴⁴

Finally, while this study considers political, economic, and institutional factors affecting implementation, the primarily doctrinal approach means these factors are examined through a legal lens rather than through dedicated political science or economic analysis. This limitation is acceptable given that the study's primary focus is on legal obligations and legal reform. However, it means that the analysis of non-legal factors, while informed and rigorous, may not have the

¹⁴⁰ As above, 43-48.

¹⁴¹ As above, 135-137.

¹⁴² T Hutchinson (n 114) 138.

¹⁴³ P Chynoweth 'Legal research' in A Knight & L Ruddock (eds) *Advanced research methods in the built environment* (2008) 28.

¹⁴⁴ I Dobinson & F Johns (n 126) 20-22.

same depth as would be provided by dedicated political economy or institutional analysis. Future research employing interdisciplinary methodologies could complement this study's findings by providing deeper analysis of these non-legal dimensions.¹⁴⁵

1.7 Scope of the Study

This section delineates the geographical, substantive, and temporal boundaries of the study and notes the limitations that define its coverage.

1.7.1 Geographical Scope

This study focuses primarily on Uganda, selected for its status as an original EAC member, its missed Annex V commitment to eliminate barriers to cross-border legal practice by 2015, and the resulting gap between commitment and implementation. It examines Uganda's constitutional framework, legislation, institutional practice, judicial decisions, and policy regarding admission of lawyers from other Partner States. Because cross-border practice is inherently regional, the study also examines the other six Partner States, Kenya, Tanzania, Rwanda, Burundi, South Sudan, and the Democratic Republic of Congo, to situate Uganda within the broader regional spectrum, identify best practices, and inform recommendations, with particular attention to Kenya and Rwanda as early liberalisers and Tanzania as the most resistant state.

1.7.2 Substantive Scope

Substantively, the study is limited to cross-border legal practice within the EAC framework, examining Treaty and Common Market Protocol provisions on legal services, professional qualifications, and free movement of workers, while excluding other integration dimensions such as trade in goods or monetary union except as context. Within the legal services sector, the study focuses on practice before courts and the provision of legal advice, the core of the profession regulated through bar associations and law councils.¹⁴⁶ It covers permanent admission of lawyers qualified elsewhere, temporary cross-border practice, and cross-border establishment of law firms, along with related disciplinary and ethical rules, but does not extend to detailed examination of substantive areas of law.

¹⁴⁵ HW Arthurs (n 116) 638-640.

¹⁴⁶ L Terry 'Lawyers, GATS, and the WTO Accountancy Disciplines: The History of the WTO's Consultation, the IBA GATS Forum and the September 2003 IBA Resolutions' (2005) 2 *Penn State International Law Review* 527 at 535-540. [^147]: Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

1.7.3 Temporal Scope

Temporally, the study focuses on 2010 to 2025, spanning the Common Market Protocol's entry into force through the Annex V deadlines, 2010 for Kenya and Rwanda and 2015 for Uganda and Burundi, allowing assessment of compliance with these commitments.^[147] It nonetheless provides historical context from the original Community (1967–1977) through the revival process (1993–2000) and the revived Community's first decade, necessary to understand the legacy issues affecting current implementation, and considers future prospects, with recommendations extending to 2030 and beyond.

1.7.4 Limitations and Delimitations

Four limitations define the study's boundaries. First, while political, economic, and institutional factors are considered, the analysis proceeds primarily through a legal lens consistent with its doctrinal methodology, relying on legislation, judicial decisions, official reports, and scholarly literature rather than original empirical research such as surveys or interviews. Second, the study is constrained by the availability of legal sources, particularly from South Sudan and the DRC, the most recent members, where documentation is comparatively limited; conclusions are drawn cautiously where sources are incomplete. Third, it concentrates on the regulatory framework rather than the practical experiences of individual lawyers or firms, though case law offers some insight into the latter. Finally, the study concentrates on East Africa, drawing selectively rather than comprehensively on the European Union, ECOWAS, and SADC.

1.8 Significance of the Study

This study addresses a genuine gap in EAC integration scholarship. While trade, customs union formation, and monetary cooperation within the Community have received considerable scholarly attention, professional services liberalisation has received comparatively limited scrutiny.¹⁴⁷ Legal services in particular remain understudied, with existing literature confined largely to short articles rather than comprehensive treatment.¹⁴⁸ This study provides the first comprehensive analysis of Uganda's implementation of its cross-border legal practice obligations, examining the legal framework, assessing compatibility, identifying implementation challenges, and proposing detailed recommendations, while also contributing to broader debates on the

¹⁴⁷ SK Buigut & NT Valev 'Is the proposed East African Monetary Union an optimal currency area? A structural vector autoregression analysis' (2005) 33 *World Development* 2119.

¹⁴⁸ BK Twinomugisha (n 11); H Rubashasa (n 81); JB Habimana (n 23).

tension between sovereignty and regional integration, regulatory capture in professional services, and the effect of common law and civil law differences on professional mobility.

For policymakers, including the Ministry of Justice and Constitutional Affairs, the Ministry of East African Community Affairs, and the Attorney General's Chambers, the study identifies the specific legislative, institutional, and policy reforms Uganda's compliance requires, informed by comparative experience from other Partner States. For the Law Council, it clarifies obligations under the Treaty and Protocol and proposes fairer, more transparent qualification-assessment mechanisms. For the Uganda Law Society and for practising lawyers on both sides of Uganda's borders, it offers balanced analysis of legitimate competition concerns alongside the case for compliance, informing both advocacy positions and individual practitioners' strategic planning, while building broader awareness within the profession of the evolving demands of practice in an integrated East Africa.

More broadly, the study speaks to the credibility of the EAC's wider integration ambitions: continued failure to implement comparatively straightforward professional services commitments raises doubts about prospects for deeper Monetary Union and Political Federation. The study's analysis of why implementation has stalled despite clear legal obligations offers lessons relevant to other sectors facing similar challenges, and to comparable liberalisation efforts under ECOWAS, SADC, and COMESA.

1.9 Theoretical Framework

A theoretical framework should explain why a phenomenon occurs, not merely describe its observable forms. The categories of economic, institutional, and legal-system protectionism that recur throughout this study, and that are examined in detail in Chapter Four, describe how Uganda's resistance to cross-border legal practice manifests; they are not, themselves, theories of why states behave this way. This study accordingly situates its analysis within neorealism, a structural theory of international relations that explains state behaviour by reference to the anarchic structure of the international system and states' resulting preoccupation with security, autonomy, and relative power.

Neorealism holds that, in the absence of a supranational authority capable of enforcing compliance, states remain the primary actors in international relations and act as rational, self-interested units concerned above all with preserving their own capacity for independent action.¹⁴⁹ Applied to regional integration, this means that even where states formally commit to

¹⁴⁹ K Waltz *Theory of International Politics* (1979) 102-128.

liberalisation, as Uganda did under Annex V of the Common Market Protocol, they retain strong incentives to guard core domains of domestic regulatory authority, particularly where ceding control could compromise their relative standing vis-à-vis other Partner States.

This concern with relative, rather than purely absolute, gains is central to explaining Uganda's non-compliance. Even where liberalising legal services would produce gains for the region as a whole, and arguably for Uganda itself, states remain wary of cooperative arrangements that might benefit a partner disproportionately.¹⁵⁰ Kenya's legal services sector is markedly larger and more developed than Uganda's; opening the Ugandan market on equal terms therefore raises the prospect that Kenyan firms would capture a disproportionate share of any gains from liberalisation, a relative-gains anxiety that neorealism predicts will generate resistance regardless of the absolute benefits liberalisation might produce.

Neorealism also helps explain the apparent contradiction between Uganda's formal Treaty commitments and its practical non-implementation. States frequently maintain the external appearance of sovereign compliance with international obligations while resisting the practical erosion of sovereign authority that genuine implementation would require, a pattern describable as organised hypocrisy.¹⁵¹ Signing the Treaty and the Common Market Protocol allowed Uganda to participate in, and benefit diplomatically and economically from, the broader EAC project, while domestic non-implementation has allowed it to retain effective control over admission to its legal profession, a core marker of regulatory sovereignty.

The theory further anticipates that international institutions, including the East African Court of Justice and the EAC Secretariat, will exercise only limited independent power to compel compliance, since institutions are themselves products of state interests and lack effective enforcement capacity where powerful states decline to comply.¹⁵² This helps explain why judicial pronouncements such as *Katungi Tony* and the referral of *Bataamwe* have not produced systemic reform: the Court can identify incompatibility, but has no mechanism to compel Uganda's Parliament or Law Council to act against their preferences.

Sovereignty-guarding behaviour at the state level does not occur in a vacuum; it is mediated through domestic political processes in which organised interest groups, here the Law Council and the Uganda Law Society, are able to translate their own preference for continued market protection into the position the State adopts in regional negotiations and implementation. Such

¹⁵⁰ JM Grieco 'Anarchy and the limits of cooperation: a realist critique of the newest liberal institutionalism' (1988) 42 *International Organization* 485.

¹⁵¹ SD Krasner *Sovereignty: Organized Hypocrisy* (1999) 3-25.

¹⁵² JJ Mearsheimer 'The false promise of international institutions' (1994) 19 *International Security* 5.

groups are well placed to overcome the collective action problems that typically beset diffuse interests, since their members are comparatively few, well-organised, and directly affected, while the beneficiaries of liberalisation, EAC lawyers and consumers of legal services generally, are diffuse and poorly organised.¹⁵³ Neorealism's state-level account is accordingly supplemented in this study by attention to how domestic preferences of this kind come to be represented as the national interest.

This is not to suggest that neorealism offers a complete account. Liberal institutionalist scholarship has shown that domestic preferences and societal actors shape state behaviour in regional integration in ways that a purely systemic account understates, and that institutions, once created, can in some circumstances acquire independent influence over outcomes.¹⁵⁴ This study accordingly treats neorealism as the primary explanatory lens, supplemented by attention to domestic preference-formation, rather than as a complete or exclusive account of Uganda's non-compliance.

This framework guides the analysis throughout the study. It explains why Uganda would sign Treaty and Protocol commitments while resisting their implementation, why relative-gains anxiety about Kenya's more developed legal market generates resistance independent of any absolute benefits liberalisation might produce, why weak regional institutions have been unable to compel compliance despite confirming its absence, and why domestic professional interests have been able to entrench protectionist outcomes. It also shapes the recommendations developed in Chapter Six, which must address not only the legal and institutional gaps identified in Chapters Two and Three but also the underlying sovereignty and relative-gains anxieties that neorealism identifies as the deeper drivers of non-compliance.

1.10 Literature Review

A substantial body of literature exists on regional integration, cross-border professional practice, and East African Community law, though legal services liberalisation has received markedly less scholarly attention than trade in goods and capital flows within the EAC. This review examines existing scholarship organised around the study's specific objectives, presenting each author's main contribution, identifying its limitations, and stating the gap that this research fills. The review engages seven to ten key authors per objective, as required.

¹⁵³ M Olson *The Logic of Collective Action: Public Goods and the Theory of Groups* (1965) 1-3.

¹⁵⁴ A Moravcsik 'Preferences and power in the European Community: a liberal intergovernmentalist approach' (1993) 31 *Journal of Common Market Studies* 473.

1.10.1 International Legal Framework Governing Cross-Border Legal Practice in the EAC

Several scholars have examined the international and regional legal framework governing cross-border legal practice in the EAC, each from a different angle.

Twinomugisha's seminal article systematically examines Article 126 of the EAC Treaty and the Common Market Protocol's provisions on free movement of services, clearly articulating the obligations Partner States have undertaken.¹⁵⁵ He traces the Annex V commitments, under which Kenya and Rwanda pledged full liberalisation of legal services by 2010 while Uganda and Burundi set 2015 as their target date.¹⁵⁶ Writing in 2011, however, he could not address the subsequent missed deadlines or the 2014 Cross-Border Legal Practice Bill, and his comparative treatment of individual Partner States remains thin. This research updates his framework with developments through 2025 and a fuller comparative assessment across all seven current Partner States.

Trouille and Binda offer comparative analysis between the European Union and East African Community approaches to free movement of lawyers, with particular focus on Rwanda, examining EU instruments such as the Lawyers' Establishment and Services Directives alongside the EAC Treaty, Protocol, the 2014 Bill, and the draft Mutual Recognition Agreements.¹⁵⁷ They document the 2017 failure of attorneys general to sign the MRA for legal services, offering valuable insight into the political obstacles to implementation.¹⁵⁸ Their focus on Rwanda and England and Wales, however, leaves Uganda's situation comparatively underexamined, and their EU-derived lessons are not always transferable without adaptation. This research foregrounds Uganda specifically and develops recommendations grounded in EAC rather than European circumstances.

Tibihikirra-Kalyegira's doctoral dissertation provides essential foundational analysis of how liberalisation policies interact with legal education frameworks in East Africa, with Uganda as its primary case study.¹⁵⁹ She argues that the structure of Uganda's legal education system, centred on Makerere University and the Law Development Centre's bar course, was deliberately designed around a closed, nationally-bounded model of professional formation that assumed graduates would practise exclusively within Uganda's common law jurisdiction.¹⁶⁰ Her analysis traces how

¹⁵⁵ BK Twinomugisha (n 11).

¹⁵⁶ As above, 3.

¹⁵⁷ H Trouille & M Binda (n 20).

¹⁵⁸ As above, 92.

¹⁵⁹ P Tibihikirra-Kalyegira 'Liberalization and the Development of Legal Education Policy in East Africa: A Case Study of Uganda' SJD dissertation, Indiana University Maurer School of Law, 2009 1–15 (on file with the author).

¹⁶⁰ As above 45–72.

admission criteria, curriculum design, and licensing requirements were built to reinforce national professional identity rather than regional mobility, locating these choices in deliberate policy decisions made during and after the colonial transition rather than mere oversight.¹⁶¹ Her account of the Law Development Centre's role as a nationally-oriented gatekeeping institution offers a structural explanation for Uganda's persistent non-compliance that purely doctrinal analysis of statutes cannot supply. Her focus, however, is legal education policy rather than the Treaty obligations that frame this research, and her dissertation predates the 2014 Bill and the *Katungi* and *Bataammwe* decisions. This research connects her institutional analysis to the compliance deficits documented in those decisions and in the gap analysis in Chapter Three.

Bwengye's treatise on legal practice in Uganda remains the most comprehensive practitioner-oriented account of the law, procedure, and professional conduct governing advocates in Uganda.¹⁶² Published in 2002, it provides systematic analysis of the Advocates Act, the Law Council's powers, the requirements for admission to the Roll of Advocates, and the disciplinary regime applicable to practitioners, examining Section 13 in particular detail, including its historical antecedents and the discretionary powers it confers on the Law Council and Chief Justice.¹⁶³ His account of the institutional culture surrounding the Act's formal provisions helps explain why decisions such as *Katungi Tony v Attorney General* have failed to produce systemic change, since barriers operate as much at the level of administrative practice as statutory text.¹⁶⁴ His work predates Uganda's accession to the EAC Treaty and the Common Market Protocol, however, and does not address regional integration obligations at all. This research uses his authoritative account as a baseline against which to measure the compatibility deficits created by Uganda's EAC commitments.

Habimana provides recent, comprehensive analysis of cross-border legal practice across all seven EAC Partner States in his 2024 article, systematically examining admission requirements and their compatibility with Treaty obligations in each state.¹⁶⁵ He finds that only Kenya, Rwanda, and Burundi have taken steps toward equal treatment, while Uganda, Tanzania, South Sudan, and the DRC maintain restrictive frameworks.¹⁶⁶ He also analyses the contested economic role of international law firms, which he characterises as exploitative of African legal talent.¹⁶⁷ His article format, however, necessarily limits the depth of analysis for any single country. This research

¹⁶¹ As above 120–145.

¹⁶² FA Bwengye *Legal Practice in Uganda: The Law, Practice, and Conduct of Advocates* (2002) v–x.

¹⁶³ As above 45–80.

¹⁶⁴ As above 82–110.

¹⁶⁵ JB Habimana (n 23).

¹⁶⁶ As above, 169–170.

¹⁶⁷ As above, 180.

supplies the focused, Uganda-specific depth that his broader regional survey could not accommodate.

Gathii examines the East African Court of Justice's role in interpreting and enforcing EAC Treaty obligations, demonstrating the Court's willingness to give Treaty provisions expansive, purposive interpretation in order to advance integration objectives.¹⁶⁸ He shows that the EACJ has been prepared to hold Partner States accountable for non-implementation even absent supportive legislative action, suggesting potential for strategic litigation to compel compliance.¹⁶⁹ His focus, however, is the Court's human rights jurisprudence rather than free movement of services specifically, and he does not examine cross-border legal practice in any detail. This research extends his insights by analysing how EACJ jurisprudence, including the pending referral of the *Bataamwe* case, could be mobilised to advance cross-border legal practice.

Lonbay provides comprehensive analysis of the European legal services market and the regulatory framework that evolved to facilitate cross-border practice, tracing developments from early Treaty provisions on establishment and services through to specific directives.¹⁷⁰ He identifies mutual recognition of qualifications, home country control with host country registration, and gradual progression from temporary service provision to permanent establishment as key organising principles.¹⁷¹ While his analysis focuses on the EU, his identification of necessary implementation mechanisms provides valuable comparative insight. The EU context nonetheless differs significantly from the EAC in institutional capacity, economic development, and the degree of legal harmonisation already achieved. This research draws on Lonbay's framework while adapting his insights to EAC circumstances rather than transplanting them directly.

Oppong analyses the ECOWAS approach to professional mobility, offering African comparative perspective more directly relevant to the EAC than European models, examining the Protocol on Free Movement of Persons and supplementary instruments addressing professional qualifications.¹⁷² He finds that despite this legal framework, actual cross-border professional practice within ECOWAS remains limited because of weak institutional capacity, limited political will, professional resistance, and inadequate enforcement.¹⁷³ His comparative insights are valuable precisely because ECOWAS shares the EAC's development levels and colonial legal

¹⁶⁸ J Gathii 'Mission creep or a search for relevance: the East African Court of Justice's human rights strategy' (2013) 24 *Duke Journal of Comparative and International Law* 249.

¹⁶⁹ As above, 260-265.

¹⁷⁰ J Lonbay (n 5).

¹⁷¹ As above, 1640-1650.

¹⁷² S Oppong (n 7).

¹⁷³ As above, 2210-2220.

diversity, but his analysis addresses professional mobility generally rather than legal services specifically. This research applies his comparative framework to legal services in the EAC context.

Ruhangisa examines the role of the legal profession in the regional integration process, arguing that lawyers bear particular responsibility for championing rather than resisting integration given their role in interpreting and applying regional law.¹⁷⁴ He situates cross-border legal practice within broader goals including strengthening trade, creating enabling environments for private sector development, and building strong public institutions. His normative perspective is valuable, but his analysis is more aspirational than empirical, describing what should happen rather than explaining why implementation has failed. This research supplies the empirical analysis and practical recommendations that his normative framework lacks.

Sebijjo argues that sustainable integration requires genuine harmonisation of legal training standards through common curricula and examination procedures, rather than mere mutual recognition of divergent qualifications.¹⁷⁵ His emphasis on harmonisation rather than simple recognition addresses quality-control concerns that often motivate resistance to cross-border practice. He acknowledges, however, that harmonisation is more demanding than recognition, requiring extensive coordination and a willingness to surrender national autonomy over educational standards, and his analysis does not fully address how to manage the transition period before harmonisation is achieved. This research considers whether graduated measures, such as bridge courses, might serve as an intermediate step toward his harmonisation goal.

Terry examines international trade in legal services through the lens of the WTO's General Agreement on Trade in Services, situating cross-border legal practice as a matter of international trade law rather than purely domestic professional regulation.¹⁷⁶ She identifies four modes of service supply under GATS, cross-border supply, consumption abroad, commercial presence, and presence of natural persons, and analyses how each applies to legal services.¹⁷⁷ This framework usefully clarifies the different regulatory challenges each mode presents. Her focus on global trade negotiations, however, does not extend to the EAC's deeper regional commitments. This research draws on her modes-of-supply framework while focusing on the EAC's regional context, where integration commitments go beyond WTO obligations.

¹⁷⁴ JE Ruhangisa 'The role of the legal profession in the regional integration process: a case of East African Community' (2011) 18 *The East African Lawyer* 11.

¹⁷⁵ SE Sebijjo *Regional integration in East African Community and European Union* (2018) 304.

¹⁷⁶ LS Terry 'Lawyers, GATS, and the WTO accountancy disciplines: the history of the WTO's consultation, current services trade negotiations, regulatory developments, and future considerations' (2008) 2 *Penn State International Law Review* 527.

¹⁷⁷ As above, 535-540.

Petersen, writing on harmonisation challenges in the EAC using tax systems as his primary example, identifies institutional capacity constraints as a major barrier and emphasises the importance of technical assistance and capacity building from development partners.¹⁷⁸ His analysis does not address legal services directly, leaving open whether capacity constraints genuinely explain non-implementation in this sector or merely provide a convenient justification for protectionism, a question this research takes up directly.

This literature establishes that a comprehensive legal framework already exists through the Treaty, Protocol, and supplementary instruments, that this framework draws inspiration from the EU model while requiring adaptation to African circumstances, and that implementation has nonetheless disappointed despite clear obligations and established deadlines. Significant gaps remain. Most existing literature offers broad regional analysis rather than detailed examination of any single country's framework. Uganda's specific legal and institutional obstacles remain underexamined despite its status as a founding member and its clear non-compliance with the 2015 commitment. There is limited analysis of the precise mechanisms through which protectionist interests have actually prevented implementation, and much of the literature predates recent developments, including the continued failure to adopt the MRA or the Cross-Border Practice Bill, the EAC's expansion to eight members, and recent Ugandan court decisions. This research addresses these gaps through detailed focus on Uganda's situation, updated analysis through 2025, and comprehensive examination of implementation mechanisms and obstacles.

1.10.2 Compatibility of Uganda's Domestic Laws with EAC Treaty Obligations

The compatibility of Uganda's domestic legal framework with its EAC Treaty obligations has received some scholarly attention, though less than the issue's importance warrants.

Twinomugisha identifies Section 13(8) of the Advocates Act, which restricts admission to those who obtained their law degrees from Ugandan universities or, for Ugandan citizens, from universities in common law countries, as the primary source of incompatibility with EAC obligations.¹⁷⁹ He correctly identifies this provision as discriminatory against EAC nationals from civil law states and potentially incompatible with the non-discrimination principle in Article 2(4) of the Common Market Protocol. His treatment, however, occupies only a few pages of a broader article and does not provide detailed legal analysis of how these provisions violate specific Treaty articles, nor does it compare Uganda's approach with other Partner States. This

¹⁷⁸ N Petersen (ed) *Tax systems and tax harmonization in the East African Community* (2010).

¹⁷⁹ BK Twinomugisha (n 11) 5-6.

research supplies the detailed legal analysis and seven-state comparison that his article format could not accommodate.

Habimana's 2024 article situates Uganda, alongside Tanzania, South Sudan, and the DRC, among the Partner States that have failed to implement equal treatment principles, noting that Uganda's 2015 deadline has long since passed.¹⁸⁰ He identifies the common law versus civil law divide as Uganda's stated justification for excluding lawyers trained in Rwanda and Burundi, suggesting that this argument functions more as pretext for protectionism than as a genuine concern about competence.¹⁸¹ His regional scope, however, means he cannot examine Uganda's specific legal framework or Law Council practice in depth. This research provides that depth.

Mwamunyange examines the domestication of EAC law in Uganda more broadly, addressing sectors beyond legal services and identifying weak inter-ministerial coordination, inadequate parliamentary attention, sovereignty concerns, and resistance from affected domestic interests as recurring obstacles.¹⁸² His work is valuable for situating the legal services implementation challenge within Uganda's broader, systemic pattern of slow domestication, demonstrating that this sector's difficulties are not unique. His analysis does not examine legal services specifically, however, and is now over a decade old. This research updates and extends his framework with detailed focus on legal services as a case study of domestication challenges.

Muriithi and Crawford analyse the principle of sovereignty and its implications for implementing the EAC Treaty, arguing that Partner States' attachment to traditional notions of sovereignty creates tension with commitments that require surrendering national autonomy over policy areas including professional regulation.¹⁸³ Their theoretical account helps explain resistance to admitting foreign-trained lawyers, since professional regulation has traditionally been treated as a core sovereign function. Their analysis remains quite abstract, however, and does not examine specific sectors or propose detailed recommendations for overcoming sovereignty concerns in practice. This research applies their theoretical insights specifically to legal services, proposing concrete mechanisms to address sovereignty concerns while still achieving implementation.

Musoke examines Kenya's legal services sector and its export of legal services to other EAC countries, showing that Kenya has amended its Advocates Act to permit admission of EAC nationals, albeit with implementation that remains incomplete and contested.¹⁸⁴ Kenya's progress,

¹⁸⁰ JB Habimana (n 23) 175.

¹⁸¹ As above, 175-176.

¹⁸² J Mwamunyange (n 129).

¹⁸³ T Muriithi & J Crawford (n 135).

¹⁸⁴ J Musoke (n 80).

though imperfect, demonstrates that common law states can implement cross-border legal practice even with civil law partners in the Community. His analysis, however, focuses primarily on Kenya's perspective as an exporter of legal services rather than on comparative regulatory frameworks. This research draws on his account of Kenya's approach while providing detailed comparative assessment with Uganda.

Trouille and Binda examine Rwanda's legal framework in detail, showing that Rwanda has been among the most progressive EAC states in implementing equal treatment for EAC lawyers despite its civil law tradition and incorporation of common law elements.¹⁸⁵ Rwanda's legal framework explicitly provides for equal treatment of EAC nationals in admission to the bar, implementing its 2010 Annex V commitment, and their analysis demonstrates that genuine commitment to integration can overcome legal system differences that other states treat as insurmountable. Their analysis, however, focuses on Rwanda rather than offering systematic comparison with Uganda's contrasting approach. This research uses Rwanda as the principal comparator against which to assess alternatives available to Uganda.

Rubashasa provides analysis from a civil law perspective, examining how lawyers trained in civil law systems navigate EAC integration and identifying barriers including common law states' insistence on common law competence, language differences between French and English, and divergent legal education methodologies.¹⁸⁶ He argues that the common law/civil law distinction is often exaggerated and that lawyers from either tradition can practise successfully in the other given appropriate orientation, proposing bridge courses and supplementary training rather than blanket exclusion. His perspective is valuable for understanding how perceived barriers appear from the standpoint of excluded lawyers, but his analysis does not engage deeply with the legal framework of any specific common law country such as Uganda. This research examines Uganda's framework from within while incorporating his proposed alternatives to exclusion.

Wanume examines institutional challenges in implementing the Common Market Protocol, identifying capacity constraints at both national and regional levels, including the absence of clear procedures for assessing foreign qualifications, inadequate staffing, and opaque decision-making processes.¹⁸⁷ He suggests that institutional weakness contributes to non-implementation even where political will nominally exists, since institutions lack the capacity to operationalise commitments. His analysis, however, is quite general, examining institutional challenges across sectors rather than legal services specifically. This research applies his institutional analysis

¹⁸⁵ H Trouille & M Binda (n 20) 95-98.

¹⁸⁶ H Rubashasa (n 81).

¹⁸⁷ P Wanume (n 128).

directly to the Law Council, examining whether capacity constraints genuinely explain non-implementation or function as cover for protectionism.

Hamza examines implementation challenges in Kenya, providing useful comparison to Uganda's situation and identifying challenges including resistance from professional associations, market-impact concerns, and institutional capacity constraints, alongside facilitating factors such as stronger government commitment, more active civil society advocacy, and strategic litigation.¹⁸⁸ His analysis suggests that implementation challenges are common across the region while also identifying factors that can facilitate progress. His focus on Kenya, however, does not extend to detailed comparison with Uganda. This research draws on his facilitating-versus-obstructing framework while examining how these factors operate specifically in Uganda.

This literature establishes that fundamental incompatibility exists between Uganda's domestic framework and its EAC obligations, centred on Section 13(8) of the Advocates Act, and that judicial decisions have confirmed this incompatibility without producing systemic reform. Comparative analysis reveals that Uganda's approach is among the most restrictive in the EAC, rivalled only by Tanzania's. Significant gaps nonetheless remain: detailed legal argumentation tying Uganda's provisions to specific Treaty and Protocol articles is largely absent, comprehensive comparison across all seven Partner States is rare, the Law Council's institutional practice beyond the formal statute is underexamined, the relationship between constitutional treaty-domestication provisions and EAC obligations is unaddressed, and most literature predates recent developments. This research addresses these gaps through detailed legal analysis, comprehensive seven-state comparison, examination of Law Council practice, constitutional analysis, and assessment updated through 2025.

1.10.3 Challenges Affecting Uganda's Compliance with Cross-Border Legal Practice Obligations

Explaining Uganda's failure to implement clear EAC commitments requires examining multiple, overlapping categories of challenge, which several scholars have analysed from different perspectives.

Trouille and Binda identify fear of aggressive competition, particularly from larger, better-resourced Kenyan firms, as a significant barrier to implementation, especially in smaller markets like Uganda where the legal services sector is less developed.¹⁸⁹ Drawing on EU experience, they argue that such fears are often exaggerated, since large sectors of legal practice remain domestic

¹⁸⁸ E Hamza (n 130).

¹⁸⁹ H Trouille & M Binda (n 20) 102.

and local knowledge continues to confer competitive advantage on domestic practitioners. They acknowledge, however, that EAC circumstances differ from Europe, and do not detail how competition concerns might be addressed through transitional measures specific to the EAC. This research develops such context-specific safeguards.

Rubashasa analyses challenges arising from legal system differences, identifying distinct sources of law, legal reasoning methodologies, procedural systems, and educational approaches between common law and civil law traditions.¹⁹⁰ He argues that these differences are genuine but not insurmountable, and that the legal-system-difference argument is often deployed strategically to justify protectionism rather than reflecting genuine concern about competence. His analysis would benefit from clearer criteria for distinguishing genuine competence concerns from protectionist arguments disguised as quality control. This research provides that more critical assessment.

Habimana identifies nationalistic tendencies, language barriers, and disparities between bar associations as further obstacles, noting that states remain attached to traditional notions of sovereignty that tie the legal profession closely to national identity, and that language barriers, while real, primarily affect Rwanda and Burundi rather than Uganda.¹⁹¹ His article format, however, treats each challenge relatively briefly and does not examine how each manifests specifically in Uganda. This research provides that country-specific depth.

He also analyses the controversial role of international law firms, arguing that their presence represents a form of neocolonial exploitation, since firms from the UK and US hire local lawyers at modest salaries while charging international rates and repatriating most profits abroad.¹⁹² His critique, while provocative, does not fully address the complexity of international firms' role in providing sophisticated legal services, facilitating investment, and transferring expertise. This research engages with his concerns about economic impact while providing more balanced analysis of these costs and benefits.

Breen analyses professional protectionism more broadly, drawing on public choice theory and regulatory capture literature to explain how professional associations influence regulation to benefit existing members at the expense of consumers and potential entrants, often dressing rent-seeking behaviour as quality control.¹⁹³ His framework helps explain resistance to cross-

¹⁹⁰ H Rubashasa (n 81) 25-30.

¹⁹¹ JB Habimana (n 23) 174.

¹⁹² As above, 180.

¹⁹³ OA Breen 'The citizen and the state: questioning the unquestionable in the legal profession' (2013) 5 *International Journal of the Legal Profession* 233.

border legal practice, since existing practitioners have strong incentives to maintain barriers to entry and significant influence over regulatory institutions such as law councils. His analysis, however, is quite general and not focused on African contexts specifically. This research applies his framework directly to Uganda, examining how the Uganda Law Society and Law Council have shaped policy on cross-border practice.

Wanume again emphasises institutional capacity challenges, identifying poor coordination between government agencies, inadequate staffing and technical expertise, and the absence of regional coordination mechanisms as factors that obstruct implementation even where political will nominally exists.¹⁹⁴ His emphasis on capacity constraints provides a useful corrective to analyses that focus primarily on political will or protectionism, but his analysis raises an unanswered question: if Uganda can effectively regulate its domestic legal profession, why does it lack capacity to assess qualifications from neighbouring states? This research critically examines whether capacity constraints genuinely explain non-implementation or serve as a convenient justification for maintaining protectionist barriers.

Hamza analyses implementation challenges in Kenya, identifying lack of political will as a critical factor, since cross-border legal practice has low political salience relative to issues such as infrastructure or security, leaving political leaders little incentive to confront organised resistance from professional associations.¹⁹⁵ His emphasis on political will recognises that technical frameworks and institutional capacity are insufficient without political commitment, but his analysis does not explain why this will is lacking or propose strategies to build it. This research examines political factors affecting implementation in Uganda while proposing strategies to increase the issue's political salience.

Muriithi and Crawford analyse sovereignty concerns that create resistance to implementation, arguing that states view professional regulation as a core sovereign function and are reluctant to surrender control over who may practise law in their courts, given lawyers' role as guardians of national legal traditions.¹⁹⁶ They suggest that overcoming this resistance requires reconceptualising sovereignty in regional terms, recognising that pooled regional sovereignty can serve national interests better than isolated national sovereignty. Their theoretical discussion, however, would benefit from more concrete proposals for translating reconceptualised sovereignty into policy change. This research proposes concrete mechanisms, including

¹⁹⁴ P Wanume (n 128) 145-150.

¹⁹⁵ E Hamza (n 130) 95-100.

¹⁹⁶ T Muriithi & J Crawford (n 135) 315-320.

transitional arrangements and quality assurance procedures, that address sovereignty concerns without preventing implementation.

Musoke examines economic concerns centred on fears of market dominance by Kenyan firms, documenting that Kenya's legal services sector is larger and more sophisticated, with firms capable of serving multinational clients, while also noting that Ugandan firms retain competitive advantages including local knowledge, existing client relationships, and lower cost structures.¹⁹⁷ His empirical perspective demonstrates that competition concerns, while understandable, may be overstated, but he does not propose specific mechanisms to address them through transitional measures or capacity building. This research draws on his empirical analysis while proposing concrete measures to address competition concerns.

Oppong's comparative perspective from ECOWAS identifies challenges common across African regional economic communities, including weak institutional capacity, limited political will, professional resistance, and sovereignty concerns, while showing that ECOWAS has achieved some success through persistent advocacy, capacity building, and graduated implementation.¹⁹⁸ His comparative analysis demonstrates that the EAC's challenges are not unique but reflect broader patterns in African regional integration. His analysis, however, does not address legal services specifically. This research draws on his comparative insights while focusing specifically on that sector.

Petersen again emphasises institutional capacity constraints and the need for technical assistance, arguing that Partner States often lack the expertise to implement complex harmonisation initiatives without capacity-building support from development partners.¹⁹⁹ His emphasis provides an important corrective to analyses that attribute non-implementation primarily to political will or protectionism, but it raises the question of why capacity building has not occurred despite more than a decade since the Common Market Protocol's adoption. This research examines whether capacity constraints genuinely explain non-implementation or function as justification for avoiding politically difficult reform.

The literature identifies economic protectionism, legal system differences, institutional capacity constraints, lack of political will, sovereignty concerns, resistance from professional associations, language barriers, and regulatory disparities as overlapping challenges requiring comprehensive rather than piecemeal responses. Significant gaps remain. Most literature addresses these

¹⁹⁷ J Musoke (n 80) 100-105.

¹⁹⁸ S Oppong (n 7) 2220-2230.

¹⁹⁹ N Petersen (n 179) 45-50.

challenges at a general or regional level without detailed examination of how they manifest in Uganda's particular context. There is limited analysis of how different challenges interact and reinforce one another, and the literature generally lacks critical assessment distinguishing genuine challenges from arguments deployed strategically to justify protectionism. There is also insufficient examination of how challenges facing Uganda differ from those facing other Partner States, and the literature offers considerably more diagnosis than prescription. This research addresses these gaps through detailed focus on Uganda's specific situation, analysis of how challenges interact systemically, critical assessment of challenge validity, comparative analysis of Uganda-specific versus region-wide obstacles, and development of comprehensive recommendations addressing each identified challenge.

1.10.4 Comparative Analysis and Lessons for Uganda

Comparative experience from other regional integration arrangements offers valuable insight into how Uganda might successfully implement cross-border legal practice, and several scholars have examined lessons from the European Union, ECOWAS, and SADC applicable to the EAC context.

Lonbay provides the most comprehensive analysis of the European Union's experience, tracing its evolution from initial Treaty provisions through implementation of specific directives on legal practice.²⁰⁰ His work demonstrates that the EU achieved successful liberalisation through clear legal frameworks, institutional mechanisms for coordination between national regulatory bodies, procedures for assessing equivalence of qualifications, and graduated pathways from temporary service provision to permanent establishment, enforced through regional courts.²⁰¹ Liberalisation, he shows, expanded opportunities for lawyers generally rather than devastating domestic markets, but the EU benefited from high levels of economic development across member states, strong institutional capacity, substantial financial resources, and political commitment sustained over decades, conditions that may not exist in the EAC.²⁰² This research draws on his systematic analysis of successful implementation elements while recognising the need for contextual adaptation to EAC circumstances.

Oppong provides African comparative perspective through his examination of the ECOWAS approach, which faces circumstances more similar to the EAC than the EU, including comparable economic development, institutional capacity constraints, and legal-system diversity

²⁰⁰ J Lonbay (n 5).

²⁰¹ As above 1645-1650.

²⁰² As above 1650-1655.

inherited from different colonial powers.²⁰³ Despite adoption of the Protocol on Free Movement of Persons and supplementary instruments addressing professional qualifications, he finds that actual cross-border professional practice within ECOWAS remains limited.²⁰⁴ Progress has nonetheless come through persistent advocacy by regional institutions, graduated implementation, capacity building programmes, pilot programmes in selected professions, extensive stakeholder consultation, and monitoring mechanisms.²⁰⁵ His analysis, however, does not address legal services specifically. This research applies his lessons, particularly political commitment from heads of state and realistic implementation timelines, specifically to that sector.

Hartzenberg examines professional services liberalisation within the Southern African Development Community, finding that implementation under SADC's Protocol on Trade in Services has been slow and uneven despite provision for mutual recognition and progressive liberalisation.²⁰⁶ She attributes this to concerns about market dominance by South African firms, fears of brain drain, capacity constraints at national regulatory bodies, and political economy factors including resistance from domestic professional associations, patterns that closely parallel those facing the EAC.²⁰⁷ She proposes regional professional councils, common qualification frameworks, dispute resolution mechanisms, and technical assistance as strategies to accelerate implementation.²⁰⁸ Her analysis, however, is quite general and does not examine legal services specifically. This research develops sector-specific applications of her proposed strategies.

Terry provides global comparative perspective through her analysis of legal services under the WTO's GATS framework, showing that successful liberalisation typically proceeds gradually, beginning with advice on home country and international law, progressing to temporary practice, and eventually to permanent establishment.²⁰⁹ She identifies four modes of service supply, cross-border supply, consumption abroad, commercial presence, and presence of natural persons, analysing the distinct regulatory challenges each presents.²¹⁰ She also emphasises safeguards including licensing requirements, continuing professional development, liability insurance, and disciplinary mechanisms applicable to foreign practitioners.²¹¹ Her GATS focus, however, addresses multilateral trade commitments rather than the EAC's deeper regional integration. This

²⁰³ S Oppong (n 7).

²⁰⁴ As above, 2210-2220.

²⁰⁵ As above, 2225-2230.

²⁰⁶ T Hartzenberg 'Regional integration in Africa' (2011) WTO Staff Working Paper ERSD-2011-14, 1-35.

²⁰⁷ As above, 20-25.

²⁰⁸ As above, 28-32.

²⁰⁹ LS Terry (n 177).

²¹⁰ As above, 535-540.

²¹¹ As above, 545-550.

research draws on her graduated-liberalisation insight while recognising that EAC commitments extend further than WTO obligations.

Trouille and Binda provide direct EU-EAC comparative analysis, arguing that many concerns motivating resistance in the EAC proved unfounded in the EU, where large sectors of practice remained inherently local, quality of service and client relationships mattered more than credentials, and legal markets proved resilient as domestic practitioners adapted successfully.²¹² They acknowledge, however, important contextual differences: the EAC lacks the EU's institutional infrastructure, financial resources, and decades of integration experience, and the EAC's common law/civil law divide presents challenges the EU confronted earlier in its own integration process.²¹³ They propose specific adaptations including establishment of an EAC Law Council as envisaged in the 2014 Bill, development of bridge courses to address legal system differences, graduated implementation, and extensive stakeholder consultation.²¹⁴ Their focus on Rwanda rather than Uganda, however, leaves detailed implementation mechanisms underdeveloped. This research builds Uganda-specific applications on their comparative framework.

Nicolaidis and Shaffer examine mutual recognition in comparative perspective, identifying several models ranging from automatic recognition based on home country approval, to recognition subject to host country verification, to recognition with additional requirements such as aptitude tests, to full harmonisation, with the appropriate model depending on the degree of regulatory trust and political sensitivity involved.²¹⁵ They argue that successful mutual recognition requires institutional mechanisms for cooperation between regulators, transparent and non-discriminatory equivalence-assessment procedures, safeguards addressing legitimate competence concerns, and dispute resolution processes.²¹⁶ Their demonstration that mutual recognition is a spectrum rather than a binary choice is valuable for the EAC context, where immediate full recognition may be politically infeasible but graduated approaches may be achievable. This research draws on their framework to propose graduated mutual recognition suited to Uganda's circumstances.

Brosig examines the interface between regional integration commitments and professional protectionism, identifying early stakeholder consultation, transitional arrangements, capacity

²¹² H Trouille & M Binda (n 20).

²¹³ As above, 100-105.

²¹⁴ As above, 105-110.

²¹⁵ K Nicolaidis & G Shaffer 'Transnational mutual recognition regimes: governance without global government' (2005) 68 *Law and Contemporary Problems* 263.

²¹⁶ As above, 280-290.

building for domestic practitioners, quality assurance mechanisms, and demonstration effects from successful implementation elsewhere as strategies that have proven effective in overcoming professional association resistance.²¹⁷ He cautions, however, that some resistance reflects genuine rather than merely protectionist concerns, and that implementation strategies must address these concerns directly rather than dismissing all resistance as self-interest.²¹⁸ This research applies his stakeholder-management insights specifically to Uganda's legal profession.

Luth and van Waarden provide comparative analysis of regulatory approaches to professional services across developed and developing countries, demonstrating that successful liberalisation requires balancing consumer protection, economic efficiency, and social equity, and that co-regulatory approaches combining professional expertise with public accountability tend to strike this balance most effectively.²¹⁹ This insight is relevant to Uganda, where the Law Council already combines professional and government representation but currently functions more to restrict than facilitate cross-border practice.²²⁰ This research examines how Uganda's regulatory institutions could be reformed to adopt more effective co-regulatory approaches.

Claessens and Glaessner examine services trade liberalisation in developing countries, identifying distinctive challenges including limited institutional capacity, fears of market domination by firms from more developed countries, and concerns about brain drain.²²¹ They also identify opportunities including access to expertise, technology transfer, and improved competition.²²² They propose that developing countries pursue liberalisation strategically, beginning with sectors where benefits clearly outweigh costs, implementing safeguards, and building institutional capacity during the liberalisation process itself.²²³ Their analysis provides an important corrective to recommendations based primarily on developed-country experience. This research incorporates their developing-country considerations into recommendations for Uganda.

The comparative literature demonstrates that successful implementation of cross-border legal practice is achievable, requiring graduated implementation, institutional capacity building, stakeholder consultation, safeguards balancing standards against protectionism, and sustained political commitment, while cautioning against simply replicating any single model. Significant

²¹⁷ M Brosig 'The interplay of international institutions in Bosnia and Herzegovina and Kosovo' (2011) *European Foreign Affairs Review* 420.

²¹⁸ As above, 430-435.

²¹⁹ H Luth & F van Waarden 'Public-private interactions and social domains' in D Levi-Faur (ed) *Handbook on the politics of regulation* (2011) 230.

²²⁰ As above, 240-245.

²²¹ S Claessens & T Glaessner 'Internationalization of financial services in Asia' (1998) World Bank Policy Research Working Paper 1911.

²²² As above, 15-20.

²²³ As above, 25-30.

gaps nonetheless remain. Most comparative analysis examines EU experience, which may have limited transferability given vastly different institutional capacities and resources. African comparative analysis tends toward generality rather than examining legal services specifically or providing detailed implementation mechanisms. There is limited analysis of how to sequence comparative lessons, and the literature provides insufficient attention to the political economy of adopting foreign models despite domestic resistance. Finally, most comparative literature describes what has been done elsewhere without providing detailed guidance on adaptation. This research addresses these gaps through systematic, sequenced analysis of EU, ECOWAS, and SADC experience, developing recommendations specifically tailored to legal services and to Uganda's circumstances.

1.10.5 Measures to Regulate Cross-Border Legal Practice

The literature on solutions for facilitating cross-border legal practice offers various proposals from different perspectives, though this area remains underdeveloped compared to problem diagnosis.

Twinomugisha proposes that practitioners seeking to practise across borders should hold a recognised law degree, belong to national and EAC lawyers' associations, be certified as advocates in their home country, submit to disciplinary procedures in both home and host states, carry professional liability and fidelity insurance, and comply with the host country's ethical and practice rules.²²⁴ These requirements balance facilitation of mobility against maintenance of professional standards, but his framework raises unanswered questions about who determines whether degrees are 'recognised', how a regional lawyers' association would function, and how cross-border disciplinary procedures would actually operate. This research builds on his framework with more detailed analysis of these implementation mechanisms.

Trouille and Binda draw extensively on EU experience to propose solutions for the EAC, noting that fears of aggressive competition and market disruption proved largely unfounded in Europe, where large sectors of practice remained inherently local and quality of service and client relationships mattered more than credentials.²²⁵ They suggest that the EAC can achieve similar outcomes through persistent advocacy, graduated implementation, and institutional development, while acknowledging that EAC circumstances differ from Europe in economic development and institutional capacity. This research draws on their comparative insights while developing context-specific recommendations recognising EAC realities.

²²⁴ BK Twinomugisha (n 11) 7.

²²⁵ H Trouille & M Binda (n 20) 100-105.

Habimana argues that protectionist measures are increasingly untenable in an era of globalisation, noting that advances in information technology, including AI-assisted legal work, are inherently borderless, and that foreign lawyers already practise in the EAC through international firms and temporary consultancies despite formally restrictive admission rules.²²⁶ His emphasis on globalisation's inexorable pressures provides important perspective on why continued resistance is unsustainable, but his analysis is more diagnostic than prescriptive, identifying why protectionism is problematic without detailing how liberalisation should be implemented. This research builds on his diagnosis while providing the detailed implementation recommendations his analysis lacks.

Rubashasa proposes bridge courses and orientation programmes as an alternative to blanket exclusion of lawyers trained in different legal traditions, suggesting that such courses could cover substantive law differences, procedural rules, legal research methods, and professional conduct standards.²²⁷ This approach addresses legitimate concerns about preparedness while avoiding the absolute barrier that current provisions create, and has precedent in jurisdictions that successfully integrate lawyers from different traditions. His analysis, however, does not address who would provide such courses, how they would be funded, or how quality would be assured. This research develops Rubashasa's proposal with detailed attention to these implementation mechanisms.

Ruhangisa proposes that regional integration should fulfil multiple functions, including strengthening trade integration, creating enabling environments for private sector development, building strong public institutions, reducing social exclusion, and strengthening regional interaction with other world regions, arguing that facilitating cross-border legal practice advances all of these objectives.²²⁸ His vision is valuable for situating cross-border legal practice within broader development goals, but his analysis remains general and aspirational, describing what integration should achieve without providing mechanisms to overcome obstacles. This research complements his vision with practical recommendations for achieving the goals he articulates.

Trouille and Binda further note that concerns motivating resistance prove unfounded once implementation occurs, since local knowledge and language skills continue to matter, client relationships based on trust and quality prevail over credentials, and legal markets prove more resilient than practitioners fear.²²⁹ Their message is fundamentally optimistic, suggesting the EAC

²²⁶ JB Habimana (n 23) 180-181.

²²⁷ H Rubashasa (n 81) 30-32.

²²⁸ JE Ruhangisa (n 175) 15-18.

²²⁹ H Trouille & M Binda (n 20) 102.

can achieve what Europe has achieved, while acknowledging the need to learn from rather than simply replicate EU experience. This research draws on their optimism while developing recommendations specifically tailored to EAC circumstances.

Lonbay identifies key elements of successful liberalisation drawn from EU experience, including clear legal frameworks, institutional coordination mechanisms, procedures for assessing equivalence, temporary-to-permanent practice pathways, professional liability safeguards, and enforcement through regional courts.²³⁰ His systematic identification of necessary elements provides a comprehensive implementation framework, though his EU focus means these elements require substantial adaptation for the EAC context. This research draws on his framework while adapting its elements to EAC circumstances and institutional capacities.

Oppong identifies lessons from ECOWAS experience applicable to the EAC, including the importance of political commitment from the highest levels, the value of graduated implementation allowing adjustment periods, the necessity of capacity building for regulatory institutions, the utility of pilot programmes before broader liberalisation, the importance of stakeholder consultation, and the need for monitoring and evaluation mechanisms.²³¹ His identification of success factors from African regional experience provides particularly relevant comparative perspective, though his analysis does not address legal services specifically. This research draws on his success factors while developing detailed recommendations for legal services.

Petersen emphasises the need for technical assistance and capacity building from development partners, arguing that Partner States cannot implement complex harmonisation and mutual recognition initiatives without external technical expertise, institutional development, training, and financial resources.²³² His emphasis on external support recognises that capacity constraints are genuine obstacles, but he does not address how to ensure that technical assistance translates into sustainable institutional capacity rather than dependency. This research incorporates his emphasis on capacity building while proposing mechanisms for sustainable institutional development.

The literature proposes qualification requirements for cross-border practitioners, bridge courses and orientation programmes, regional coordination mechanisms, graduated implementation, institutional capacity building, technical assistance, and comparative learning from the EU and

²³⁰ J Lonbay (n 5) 1645-1650.

²³¹ S Oppong (n 7) 2225-2230.

²³² N Petersen (n 179) 48-52.

ECOWAS as building blocks for reform. These proposals offer valuable starting points, but significant gaps remain. Most lack detailed implementation mechanisms, offering principles without specifying how to translate them into practice. There is limited analysis of how to sequence reforms and manage transitions, and insufficient attention to the political economy of building coalitions that support reform against resistance from entrenched interests. The literature provides inadequate analysis of how to adapt lessons from other regions to the EAC's specific circumstances, monitoring and evaluation frameworks are largely absent, and few authors offer comprehensive recommendations addressing all dimensions of the challenge. This research addresses these gaps by developing detailed, sequenced, comprehensive recommendations with specific implementation mechanisms, political strategies, and monitoring frameworks adapted to Uganda's circumstances while drawing on comparative best practice.

1.11 Chapter Outline

This research study is presented in five chapters.

Chapter One lays the foundation for the study, presenting the introduction, background, problem statement, objectives, research questions, methodology, scope, significance, theoretical framework, and literature review organised around the study's four specific objectives. It establishes that despite clear EAC Treaty and Common Market Protocol obligations, Uganda has failed to implement cross-border legal practice as committed, warranting comprehensive analysis of this implementation gap.

Chapter Two identifies and analyses the international legal framework governing cross-border legal practice, examining Articles 126, 76, and 104 of the EAC Treaty, the Common Market Protocol's relevant articles and Annex V commitments, the proposed 2014 Cross-Border Legal Practice Bill, the draft Mutual Recognition Agreements, relevant EAC regulations, and comparative frameworks from the European Union, ECOWAS, and SADC.

Chapter Three analyses the compatibility of Uganda's domestic laws with its EAC obligations, examining the constitutional framework on treaty domestication, the Advocates Act, particularly Section 13's admission requirements, the Law Council and Law Development Centre, and the *Katungi Tony v Attorney General* and *Andrew Bataamwe v Attorney General* decisions, before comparing Uganda's framework with the other six Partner States to situate its approach within the regional spectrum from most restrictive to most progressive.

Chapter Four identifies and analyses the challenges affecting Uganda's compliance, including sovereignty and protectionism concerns, the common law/civil law divide, language and

educational disparities, institutional and administrative constraints, political and policy factors, economic competition concerns, and social and cultural factors, distinguishing challenges unique to Uganda from those common across the region and assessing which represent genuine obstacles rather than strategic protectionism.

Chapter Five undertakes comparative analysis of other regional integration frameworks, examining the European Union's liberalisation experience, African experiences under ECOWAS and SADC, and lessons from jurisdictions that have successfully integrated lawyers from different legal traditions, synthesising best practices and strategies for overcoming resistance while recognising that contextual differences require adaptation rather than replication.

Chapter Six presents the summary of findings, conclusions, and recommendations, synthesising the analysis to confirm the research hypotheses regarding inconsistency between Uganda's domestic laws and its EAC obligations, institutional ineffectiveness, and framework inadequacy. It develops sequenced legislative, institutional, and policy recommendations, including specific Advocates Act amendments, Law Council and Law Development Centre reforms, bridge courses, transitional arrangements, and capacity-building measures, assigning responsible actors and monitoring mechanisms, grounded in comparative best practice and adapted to Uganda's specific context.

CHAPTER TWO

INTERNATIONAL LEGAL FRAMEWORK GOVERNING CROSS-BORDER LEGAL PRACTICE IN UGANDA AND THE EAC

- 2.1 Introduction
- 2.2 The East African Community Treaty Framework
- 2.3 The EAC Common Market Protocol
- 2.4 Annex V: Schedule of Commitments on Progressive Liberalization of Services
- 2.5 Proposed Cross-Border Legal Practice Bill (2014)
- 2.6 Mutual Recognition Agreements (MRAs)
- 2.7 Other Relevant EAC Instruments
- 2.8 Additional International Laws
- 2.9 Conclusion

2.1 Introduction

This chapter examines the international and regional legal framework governing cross-border legal practice in Uganda within the East African Community, addressing the first research objective by identifying and interpreting the treaty provisions, protocols, and other instruments that establish Partner States' obligations on liberalisation of legal services.

The chapter begins with the Treaty for the Establishment of the East African Community, particularly Articles 126, 76, and 104, before turning to the Common Market Protocol, which operationalises these provisions, and Annex V, which sets out Partner States' liberalisation commitments. It then examines why the proposed 2014 Cross-Border Legal Practice Bill and the 2011 Mutual Recognition Agreements have not entered into force, before considering comparative frameworks, including the European Union and ECOWAS, and relevant principles of international law, to establish the foundation for assessing Uganda's domestic compliance in Chapter Three.

2.2 The East African Community Treaty Framework

The Treaty for the Establishment of the East African Community forms the constitutional foundation for all aspects of regional integration among Partner States, including the cross-

border practice of law. This section examines the Treaty's historical evolution and the specific provisions, Articles 126, 76, and 104, that establish Uganda's obligations regarding cross-border legal practice.

2.2.1 Historical Evolution and Objectives of the EAC

The original EAC, established in 1967 by Kenya, Tanzania, and Uganda, built on colonial-era cooperation,¹ creating common services in transport, communications, and finance alongside institutions including the East African Legislative Assembly, the East African Court of Justice, and various common service corporations.² It collapsed in 1977 amid divergent political ideologies, unequal distribution of benefits, and insufficient political will to sustain integration,³ leaving substantial debts and disrupting established patterns of trade and cooperation.⁴ For more than two decades, the three states pursued largely independent paths, though informal cooperation continued in some sectors,⁵ Tanzania adopting socialist ujamaa policies, Kenya pursuing capitalist development, and Uganda experiencing political instability and economic decline.⁶

Revival efforts began in the late 1980s and early 1990s as Partner States recognised the costs of isolation.⁷ The 1993 Agreement establishing the Permanent Tripartite Commission for East African Co-operation provided the institutional vehicle for this renewed cooperation,⁸ the Commission undertaking feasibility studies and developing proposals for a new treaty.⁹ The current EAC was formally established when the three states signed the Treaty on 30 November 1999,¹⁰ which entered into force on 7 July 2000 following ratification.¹¹ The revived Community adopted a gradual, four-stage integration process: a Customs Union, a Common Market, a Monetary Union, and ultimately a Political Federation.¹²

¹ MM Munya 'The emergence and unravelling of the East African Community (1967-1977): implications for the revived East African Community' (2009) 26 *Development Policy Review* 17.

² A Hazlewood 'The end of the East African Community: what are the lessons for regional integration schemes?' (1979) 18 *Journal of Common Market Studies* 40.

³ A Hazlewood (n 2) 41-42.

⁴ As above, 43-45.

⁵ MM Munya (n 1) 20.

⁶ R Himbara 'Domesticating ideologies and building capabilities: structural adjustment in Tanzania and Uganda 1984-1994' (1997) 12 *Canadian Journal of Development Studies* 329.

⁷ MM Munya (n 1) 21.

⁸ Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation, 30 November 1993.

⁹ MM Munya (n 1) 22.

¹⁰ Treaty for the Establishment of the East African Community, 30 November 1999.

¹¹ As above, Art 150.

¹² As above, Art 5(2).

The Treaty establishes the EAC as an international organisation with legal personality.¹³ Its objectives under Article 5(2) are wide-ranging, encompassing political, economic, social, and cultural cooperation for mutual benefit,¹⁴ with the four-stage integration process as its central institutional aim.¹⁵ Membership has since expanded: Rwanda and Burundi joined on 1 July 2007, introducing civil law systems to a previously common law Community,¹⁶ South Sudan became the sixth member on 15 August 2016 amid ongoing internal conflict,¹⁷ and the DRC joined as the seventh member on 11 July 2022, substantially expanding the Community's geographic, demographic, and economic scope.¹⁸

The EAC's institutional architecture combines supranational and intergovernmental elements: the Summit of Heads of State provides strategic direction as the supreme organ,¹⁹ the Council of Ministers coordinates implementation,²⁰ the East African Legislative Assembly exercises legislative functions, albeit more limited than national parliaments,²¹ the East African Court of Justice serves as the judicial organ interpreting and applying the Treaty,²² and the Secretariat, headed by a Secretary General, implements decisions and coordinates activities.²³ The Treaty affirms Partner States' sovereign equality,²⁴ while simultaneously requiring harmonisation of laws and policies that creates inherent tension between sovereignty and integration, a tension particularly acute in sensitive areas such as professional regulation where Uganda's obligations regarding cross-border legal practice must be understood.²⁵

2.2.2 Article 126: Harmonization of Legal Training and Certification

Article 126(1) provides that Partner States undertake to harmonise legal training and certification and to promote standardisation of court judgments in furtherance of the Community's objectives.²⁶ The mandatory phrasing, 'undertake to take measures', signals a binding rather than aspirational commitment.²⁷ Article 126(2) elaborates concrete steps: establishing a common

¹³ As above, Art 1.

¹⁴ As above, Art 5(2).

¹⁵ As above.

¹⁶ EAC 'History of the EAC' <https://www.eac.int/eac-history> (accessed 15 December 2025).

¹⁷ As above.

¹⁸ As above.

¹⁹ Art 9 of the Treaty for the Establishment of the East African Community, 1999.

²⁰ As above, Art 14.

²¹ As above, Art 49.

²² As above, Art 23.

²³ As above, Art 67.

²⁴ As above, Preamble & Art 6(a).

²⁵ As above, Art 126.

²⁶ As above, Art 126(1).

²⁷ Vienna Convention on the Law of Treaties, adopted 23 May 1969, entered into force 27 January 1980, 1155 UNTS 331, art 26.

syllabus and common examination standards for qualification as an advocate, and facilitating the freedom of movement of advocates within the Community.²⁸ The word 'facilitate' in Article 126(2)(b) implies an active obligation to take positive steps enabling movement, not merely a duty to refrain from prohibiting it.²⁹ Read together, Article 126(1) and (2) establish harmonisation as a means toward the Treaty's broader integration objectives rather than an end in itself.³⁰

The reference to action 'through appropriate national institutions' recognises that Partner States regulate the profession through different bodies.³¹ In Uganda, this is the Law Council established under the Advocates Act;³² in Kenya, the equivalent function falls to the Council for Legal Education.³³ Interpreting Article 126 according to the Vienna Convention's ordinary-meaning, context, and object-and-purpose principles³⁴ confirms that 'facilitate the freedom of movement of advocates' extends beyond removing explicit prohibitions, consistent with the Treaty's Article 5 objective of achieving free movement of persons and services.³⁵

The harmonisation obligation must contend with genuinely divergent legal education systems across the Community, themselves reflecting different colonial inheritances:³⁶ Kenya, Tanzania, and Uganda inherited common law education frameworks,³⁷ Rwanda and Burundi inherited civil law frameworks as former Belgian colonies,³⁸ South Sudan's system reflects both common law and customary influences,³⁹ and the DRC operates a civil law system also inherited from Belgian administration.⁴⁰ Harmonisation need not require complete uniformity; it can instead establish minimum common standards while permitting Partner States to retain distinctive features, an interpretation consistent with the Treaty's simultaneous respect for sovereignty. The East African Court of Justice has jurisdiction to interpret and enforce Article 126,⁴¹ though it has not yet issued a decision specifically addressing its requirements, leaving some interpretive questions unresolved. Article 126 must also be read alongside Article 76's general Common Market

²⁸ Art 126(2) of the Treaty for the Establishment of the East African Community, 1999.

²⁹ As above, Art 126(2)(b).

³⁰ As above, Art 126(1).

³¹ As above, Art 126(2).

³² Advocates Act, Cap 295 (Uganda), sec 3.

³³ Council of Legal Education Act, Cap 16 (Kenya), sec 3.

³⁴ Vienna Convention on the Law of Treaties (n 27) art 31.

³⁵ Art 5 of the Treaty for the Establishment of the East African Community, 1999.

³⁶ JWK Mugambwa 'A comparative analysis of the transformation of East African legal systems since independence' (2007) 11 *Electronic Journal of Comparative Law* 1 at 5.

³⁷ As above, 2-4.

³⁸ As above, 12-15.

³⁹ E Joireman 'Inherited legal systems and effective rule of law: Africa and the colonial legacy' (2001) 39 *Journal of Modern African Studies* 571 at 580.

⁴⁰ As above.

⁴¹ Art 27 of the Treaty for the Establishment of the East African Community, 1999.

framework and Article 104's free movement provisions, discussed below, of which it forms the specialised application to legal services; the Common Market Protocol and the unadopted 2014 Cross-Border Legal Practice Bill represent the principal attempts to operationalise its mandate, leaving Article 126's obligations only partially implemented to date.

2.2.3 Article 76: The Common Market Principle

Article 76(1) commits Partner States to establish a Common Market in accordance with the Treaty's relevant chapter,⁴² with detailed implementation delegated to a separate protocol, materialised as the 2009 Common Market Protocol discussed below.⁴³ Article 76(2) specifies that the Common Market shall be a unified market built on four freedoms of movement,⁴⁴ mirrored in Article 2 of the Protocol: free movement of goods, persons, labour, services, and capital, together with rights of establishment and residence,⁴⁵ a formulation deliberately modelled on the European Union's single market concept, adapted to EAC circumstances.⁴⁶ For cross-border legal practice, the freedoms of movement of services and of persons/labour are most directly relevant, alongside the right of establishment permitting lawyers to set up firms or branch offices in other Partner States.

Article 76(3) provides that establishment of the Common Market shall be progressive, based on the principles of asymmetry and variable geometry,⁴⁷ allowing Partner States to implement obligations at different rates, a flexibility reflected in the differentiated Annex V commitments discussed below: Kenya and Rwanda committed to full liberalisation by 2010, Uganda and Burundi set 2015, and Tanzania made no commitment at all.⁴⁸ Such flexibility, while easing initial agreement, also risks perpetuating a fragmented regulatory environment inconsistent with a genuinely unified market. Article 76(4) confirms that detailed implementation is subject to the Protocol and such other instruments as the Community may subsequently develop,⁴⁹ the Protocol itself having been signed in 2009 and entered into force in 2010,⁵⁰ with Uganda's own 2015 target date for legal services now long past.⁵¹

⁴² Art 76(1) of the Treaty for the Establishment of the East African Community, 1999.

⁴³ Protocol on the Establishment of the East African Common Market, 2009.

⁴⁴ Art 76(2) of the Treaty for the Establishment of the East African Community, 1999.

⁴⁵ Art 2 of the Protocol on the Establishment of the East African Common Market, 2009.

⁴⁶ J Lonbay 'Assessing the European market for legal services: developments in the free movement of lawyers in the European Union' (2011) 33 *Fordham International Law Journal* 1629 at 1630-1635.

⁴⁷ Art 76(3) of the Treaty for the Establishment of the East African Community, 1999.

⁴⁸ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

⁴⁹ Art 76(4) of the Treaty for the Establishment of the East African Community, 1999.

⁵⁰ Protocol on the Establishment of the East African Common Market, 2009.

⁵¹ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

Article 76 must be read against the Treaty's Article 5 objectives of development, wealth creation, competitiveness, and employment,⁵² which liberalised legal services would advance, and continued restriction undermines. The non-discrimination principle, while not explicit in Article 76 itself, is made explicit in Article 2(4) of the Protocol, prohibiting discriminatory measures against nationals of other Partner States.⁵³ Partner States retain the right to regulate professions for legitimate public interests, but any such regulation must be proportionate and non-discriminatory,⁵⁴ satisfying a test of suitability, necessity, and reasonableness in light of the burden imposed.⁵⁵ Article 76 thus establishes a binding, not merely aspirational, commitment requiring Uganda to remove discriminatory barriers to legal services and to participate in harmonisation and mutual recognition efforts, complementing rather than competing with Article 126's more specialised mandate.

2.2.4 Article 104: Free Movement of Persons, Labour, and Services

Article 104 commits Partner States to adopt measures achieving free movement of persons, labour, and services, and to ensure rights of establishment and residence for their nationals within the Community.⁵⁶ As with Article 76, the phrase 'undertake to adopt measures to achieve' signals a binding obligation requiring active steps, not mere non-interference.⁵⁷ The free movement of persons dimension is broad, covering movement for work, business, study, and residence, and renders visa or work-permit barriers inconsistent with the Treaty unless justified by legitimate concerns such as public security and proportionate to them.⁵⁸ Free movement of labour specifically requires that lawyers employed by firms or corporate legal departments in other Partner States receive equal treatment with domestic lawyers across all aspects of employment, including training access and benefits.⁵⁹ Free movement of services addresses the various modes through which legal services may be supplied across borders, cross-border supply, consumption abroad, commercial presence, and temporary presence of the lawyer themselves, each requiring removal of impeding restrictions.⁶⁰ The right of establishment permits lawyers to set up firms, branch offices, or partnerships in other Partner States,⁶¹ while the right of residence

⁵² Art 5(1) of the Treaty for the Establishment of the East African Community, 1999.

⁵³ Art 2(4) of the Protocol on the Establishment of the East African Common Market, 2009.

⁵⁴ J Lonbay (n 46) 1640-1645.

⁵⁵ As above.

⁵⁶ Art 104 of the Treaty for the Establishment of the East African Community, 1999.

⁵⁷ Vienna Convention on the Law of Treaties (n 27) art 26.

⁵⁸ J Gathii 'African regional trade agreements as flexible legal regimes' (2010) 35 *North Carolina Journal of International Law and Commercial Regulation* 571 at 586.

⁵⁹ BK Twinomugisha 'Cross border legal practice in an integrated East African Community' (2011) 18 *The East African Lawyer* 3.

⁶⁰ General Agreement on Trade in Services, adopted 15 April 1994, 1869 UNTS 183, art 1.

⁶¹ J Lonbay (n 46) 1635-1640.

ensures that those exercising these rights may lawfully reside in the host state without undue restriction.⁶²

These rights are meaningful only alongside equal treatment once admitted, the requirement made explicit in Article 2(4) of the Common Market Protocol.⁶³ Partner States may nonetheless maintain restrictions justified by legitimate concerns, including public security, order, health, or environmental protection, provided such restrictions satisfy tests of necessity and proportionality.⁶⁴ More than two decades after the Treaty's entry into force, and more than a decade after the Common Market Protocol's adoption, Partner States including Uganda should have achieved substantially more progress toward the free movement Article 104 contemplates.⁶⁵ Sovereignty concerns do not undermine these obligations: Partner States voluntarily assumed them through ratification, and self-limitation through treaty commitment represents an exercise of sovereignty rather than its violation,⁶⁶ consistent with the Treaty's own provisions acknowledging sovereign equality.⁶⁷ Enforcement runs primarily through the East African Court of Justice, which has jurisdiction to hear claims concerning Partner States' compliance and to issue binding judgments,⁶⁸ though the mechanism's practical effectiveness depends on affected parties' willingness to litigate and Partner States' willingness to comply. Article 104 thus supplies, alongside Articles 76 and 126, a clear and binding Treaty foundation against which Uganda's domestic compliance, examined in Chapter Three, must be measured.

2.3 The EAC Common Market Protocol

The Protocol on the Establishment of the East African Common Market is the primary instrument implementing the Treaty's Common Market obligations, including those relevant to cross-border legal practice, providing detailed provisions on free movement of goods, persons, labour, services, and capital, and on rights of establishment and residence.⁶⁹ It was signed by the five Partner States then in the Community on 20 November 2009 and entered into force on 1 July 2010 following ratification by all of them;⁷⁰ South Sudan and the DRC, acceding later, are bound by it as a condition of their own accession.

⁶² BK Twinomugisha (n 59).

⁶³ Art 2(4) of the Protocol on the Establishment of the East African Common Market, 2009.

⁶⁴ Vienna Convention on the Law of Treaties (n 27) art 46.

⁶⁵ Protocol on the Establishment of the East African Common Market, 2009.

⁶⁶ Vienna Convention on the Law of Treaties (n 27) art 26.

⁶⁷ Preamble & Art 6(a) of the Treaty for the Establishment of the East African Community, 1999.

⁶⁸ Art 27 of the Treaty for the Establishment of the East African Community, 1999.

⁶⁹ Protocol on the Establishment of the East African Common Market, 2009.

⁷⁰ As above.

2.3.1 Overview and Objectives

Article 1 sets out the Protocol's objectives: establishing the Common Market, accelerating economic growth through free movement, and promoting investment and trade,⁷¹ objectives particularly relevant to legal services given their role in facilitating cross-border commercial transactions. As a Protocol to the Treaty, it carries binding force equivalent to the Treaty itself,⁷² Article 150 of the Treaty confirming that protocols form part of it with the same legal effect,⁷³ and entry into force following ratification confirming Partner States' consent to be bound.⁷⁴ Uganda's dualist constitutional approach means the Protocol does not automatically become domestic law and requires incorporating legislation,⁷⁵ though this affects only the mechanism of compliance, not the underlying international law obligation to comply in good faith under the *pacta sunt servanda* principle.⁷⁶ The Protocol contemplates progressive implementation, incorporating the Treaty's asymmetry and variable geometry principles to allow Partner States to proceed at different paces toward common objectives.⁷⁷

Article 2 establishes the Protocol's general interpretive principles. Article 2(1) confirms Partner States' binding commitment to establish the Common Market and implement the Protocol's provisions through domestic measures.⁷⁸ Article 2(2) lists the constituent freedoms, mirroring the four freedoms in Treaty Article 76.⁷⁹ Article 2(3) requires adherence to good governance principles, including rule of law, accountability, and transparency, recognising that effective implementation depends on more than technical legal change.⁸⁰ Most significantly for this study, Article 2(4) establishes the non-discrimination principle, prohibiting discriminatory measures against nationals of other Partner States, the foundation for requiring equal treatment of advocates from elsewhere in the Community.⁸¹

Implementation responsibility rests primarily with the Council of Ministers, which coordinates implementation and may adopt regulations and directives,⁸² supported by Sectoral Councils including one on Legal and Judicial Affairs, and by national institutions such as law councils and

⁷¹ As above, Art 1.

⁷² Art 150 of the Treaty for the Establishment of the East African Community, 1999.

⁷³ As above.

⁷⁴ Vienna Convention on the Law of Treaties (n 27) art 11.

⁷⁵ Art 123 of the Constitution of the Republic of Uganda, 1995.

⁷⁶ Vienna Convention on the Law of Treaties (n 27) art 26.

⁷⁷ Art 76(3) of the Treaty for the Establishment of the East African Community, 1999.

⁷⁸ Art 2(1) of the Protocol on the Establishment of the East African Common Market, 2009.

⁷⁹ As above, Art 2(2).

⁸⁰ As above, Art 2(3).

⁸¹ As above, Art 2(4).

⁸² Art 14 of the Treaty for the Establishment of the East African Community, 1999.

bar associations.⁸³ Partner States must submit periodic implementation reports to the Council,⁸⁴ though these monitoring mechanisms have proven insufficient to secure full compliance, as the continued restriction of cross-border legal practice more than a decade after entry into force demonstrates. The Protocol's detailed framework on free movement of services and labour, non-discrimination, and mutual recognition supplies the specific legal foundation against which Uganda's compliance, examined in Chapter Three, must be assessed.

2.4 Annex V: Schedule of Commitments on Progressive Liberalization of Services

Annex V to the Common Market Protocol records Partner States' specific commitments on liberalising services, including legal services, and provides the clearest indication of each state's position and progress, examined in this section.

2.4.1 Structure and Legal Status

Annex V, titled the Schedule of Commitments on the Progressive Liberalization of Services, forms an integral part of the Protocol⁸⁵ and carries the same binding force and interpretive principles as the Protocol's main text;⁸⁶ Partner States cannot treat its commitments as merely aspirational. It follows a sectoral, GATS-style structure, recording commitments across four modes of supply,⁸⁷ mirroring the WTO's General Agreement on Trade in Services framework.⁸⁸ Market access commitments concern removing quantitative and similar restrictions on service suppliers,⁸⁹ while national treatment commitments concern eliminating measures that disadvantage foreign suppliers relative to domestic ones.⁹⁰ For legal services, the four modes are: cross-border supply, advice given remotely from the lawyer's home state;⁹¹ consumption abroad, where the client travels to receive services;⁹² commercial presence, establishment of firms or branch offices;⁹³ and presence of natural persons, temporary movement of the lawyer.⁹⁴

⁸³ EAC 'Sectoral Councils' <https://www.eac.int/organs-institutions/sectoral-councils> (accessed 15 December 2025).

⁸⁴ Art 47 of the Protocol on the Establishment of the East African Common Market, 2009.

⁸⁵ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

⁸⁶ Art 150 of the Treaty for the Establishment of the East African Community, 1999.

⁸⁷ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

⁸⁸ General Agreement on Trade in Services, adopted 15 April 1994, 1869 UNTS 183, art 1.

⁸⁹ As above, art 16.

⁹⁰ As above, art 17.

⁹¹ As above, art 1(2)(a).

⁹² As above, art 1(2)(b).

⁹³ As above, art 1(2)(c).

⁹⁴ As above, art 1(2)(d).

Each Partner State maintains its own schedule, listing restrictions explicitly under a 'positive list' approach: any restriction not listed is presumptively prohibited.⁹⁵ This binding character is reinforced by Article 16 of the Protocol, which requires progressive removal of restrictions on establishment⁹⁶ and gradual removal of restrictions on service provision,⁹⁷ meaning a Partner State's failure to honour its Annex V commitment breaches not only the Annex but Article 16 itself. The East African Court of Justice has jurisdiction to determine compliance and issue binding judgments,⁹⁸ though enforcement depends on litigants' willingness to bring claims. Where an Annex V timeline might seem to permit delay, the better interpretation is that it cannot excuse violations of the Protocol's mandatory non-discrimination requirement under Article 2(4), which operates independently of any liberalisation schedule.⁹⁹

2.4.2 Comparative Analysis of Partner States' Commitments

Partner States' Annex V commitments on legal services vary considerably. Kenya committed to full liberalisation across all four modes of supply by 2010, one of the two earliest committed timelines alongside Rwanda,¹⁰⁰ though its implementation has been incomplete and inconsistent, particularly toward lawyers from civil law Partner States.¹⁰¹ *Samuel Gatari* illustrates this shortfall.¹⁰² Rwanda matched Kenya's 2010 timeline,¹⁰³ a notable commitment given the complexity of integrating its own hybrid civil/common law system with its neighbours',¹⁰⁴ and has implemented it more consistently, amending its framework to admit common-law-trained lawyers¹⁰⁵ and establishing recognition procedures through its Bar Association,¹⁰⁶ though language and substantive-law differences continue to limit practical uptake.¹⁰⁷

⁹⁵ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

⁹⁶ Art 16(1) of the Protocol on the Establishment of the East African Common Market, 2009.

⁹⁷ As above, Art 16(2).

⁹⁸ Art 27 of the Treaty for the Establishment of the East African Community, 1999.

⁹⁹ Art 2(4) of the Protocol on the Establishment of the East African Common Market, 2009.

¹⁰⁰ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

¹⁰¹ HK Sigei 'Liberalization of trade in legal services within the east African community' Masters Thesis, University of Nairobi, 2016 (on file with the author).

¹⁰² *Samuel Gatari & 2 Others v Attorney General of Kenya*, EACJ Reference 6 of 2020.

¹⁰³ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

¹⁰⁴ JWK Mugambwa (n 36) 12-15.

¹⁰⁵ H Trouille & M Binda 'The evolution of the free movement of lawyers in the European Union and the East African Community compared: achievements and challenges in implementing integration freedoms in England and Wales and Rwanda' in H Trouille, G Ndayisaba & J Trouille (eds) *Africa, the European Union and China towards a new global cooperation?* (2020) 95-98.

¹⁰⁶ As above.

¹⁰⁷ JB Habimana 'The shadow of cross border legal practice in the East African Community' (2024) 5 *Journal of Contemporary Research in Social Sciences* 175-176.

Uganda committed to liberalisation by 2015, five years later than Kenya and Rwanda,¹⁰⁸ yet Section 13 of the Advocates Act continues to restrict admission by nationality and place of training, in direct tension with that commitment;¹⁰⁹ *Katungi Tony* and *Andrew Bataamwe*, examined in Chapter Three, illustrate how this restrictive framework has prevented implementation despite the deadline's passage.¹¹⁰ Burundi committed to the same 2015 timeline,¹¹¹ facing comparable civil-law/common-law integration challenges,¹¹² and has made similarly limited practical progress despite recognising the equal-treatment principle in law.¹¹³ French-language proceedings compound these difficulties.¹¹⁴ Tanzania made no Annex V commitment at all,¹¹⁵ meaning lawyers cannot practise in one of the Community's largest markets and Tanzanian lawyers face reciprocal exclusion elsewhere,¹¹⁶ its Advocates Act maintaining strict nationality requirements¹¹⁷ that violate the Protocol's general non-discrimination principle independent of any Annex V position.¹¹⁸ South Sudan, acceding in 2016 after Annex V had already taken effect, has submitted no schedule of its own,¹¹⁹ its hybrid common law, customary, and Islamic law influences complicating any future harmonisation,¹²⁰ and the DRC, acceding in 2022, has likewise submitted no schedule,¹²¹ its Belgian-derived civil law system presenting integration challenges similar to Rwanda's and Burundi's.¹²² Chapter Five returns to each state's framework in greater depth; the point for present purposes is simply that Uganda's missed 2015 deadline places it, alongside Burundi, among the states that committed to liberalisation but did not deliver it, a materially different posture from Tanzania's outright non-commitment.

2.4.3 Implementation Status and Compliance

Assessing compliance across the Community reveals a consistent pattern of delay. Kenya's domestic framework still restricts admission by the legal system in which a candidate trained despite its rhetorical commitment to liberalisation,¹²³ its Advocates Act requiring either a Kenyan

¹⁰⁸ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

¹⁰⁹ Sec 13(8) of the Advocates Act, Cap 295 (Uganda).

¹¹⁰ *Katungi Tony v Attorney General*, Miscellaneous Cause 204 of 2017 (High Court of Uganda); *Andrew Bataamwe v Attorney General*, Miscellaneous Cause 280 of 2019 (High Court of Uganda), 13 May 2020.

¹¹¹ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

¹¹² JWK Mugambwa (n 36) 12-15.

¹¹³ JB Habimana (n 107) 175.

¹¹⁴ As above, 175-176.

¹¹⁵ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

¹¹⁶ HK Sigei (n 101) 95-100.

¹¹⁷ Advocates Act, Cap 341 (Tanzania), sec 10.

¹¹⁸ Art 2(4) of the Protocol on the Establishment of the East African Common Market, 2009.

¹¹⁹ EAC 'South Sudan' <https://www.eac.int/south-sudan> (accessed 15 December 2025).

¹²⁰ E Joireman (n 39) 580.

¹²¹ EAC 'Democratic Republic of Congo' <https://www.eac.int/drc> (accessed 15 December 2025).

¹²² JWK Mugambwa (n 36) 12-15.

¹²³ J Musoke (n 101) 65.

university degree or qualification in a common law jurisdiction,¹²⁴ a restriction its judiciary and Law Society defend on the ground that civil-law-trained lawyers lack the necessary grounding, a justification this study finds difficult to sustain given the availability of bridging mechanisms and the requirement's tension with the non-discrimination principle.¹²⁵ Rwanda has amended its framework but practical barriers persist,¹²⁶ including language-proficiency requirements in Kinyarwanda, French, or English;¹²⁷ it has established recognition procedures and admitted several lawyers from common law states,¹²⁸ though numbers remain very small.¹²⁹

Uganda has made virtually no progress since its 2015 deadline passed: Section 13 continues to require either a Ugandan university degree or, for citizens, a common law qualification,¹³⁰ and the Law Council has interpreted these requirements strictly even against EAC nationals.¹³¹ *Katungi Tony* and *Andrew Bataamwe* illustrate the consequence,¹³² the High Court in *Katungi* acknowledging Uganda's Treaty obligations without ordering the applicant's admission, calling instead for legislative reform that has not followed.¹³³ Burundi's law now recognises equal treatment in principle, but lacks the implementing mechanisms to give it effect,¹³⁴ and Tanzania's absence of any Annex V commitment does not excuse its nationality-based restrictions from violating the Protocol's general non-discrimination requirement.¹³⁵

This pattern reflects, in significant part, the absence of effective enforcement: although the East African Court of Justice has jurisdiction to hear compliance claims, few cases concerning legal services have been brought, and even favourable judgments depend on Partner States' voluntary compliance, since the Community lacks mechanisms to compel performance beyond diplomatic pressure and reputational consequence.¹³⁶ The consequences are real: lawyers are denied the professional opportunities the Common Market promised, clients lose access to potentially better-suited counsel, cross-border transaction costs rise, and the credibility of the EAC's wider integration project is undermined each time a clear commitment goes unmet.

2.5 Proposed Cross-Border Legal Practice Bill (2014)

¹²⁴ Advocates Act, Cap 16 (Kenya), sec 10.

¹²⁵ *Samuel Gatari & 2 Others v Attorney General of Kenya* (n 102).

¹²⁶ H Trouille & M Binda (n 105) 95-98.

¹²⁷ As above.

¹²⁸ As above.

¹²⁹ JB Habimana (n 107) 175.

¹³⁰ Sec 13(8) of the Advocates Act, Cap 295 (Uganda).

¹³¹ *Katungi Tony v Attorney General* (n 110).

¹³² As above; *Andrew Bataamwe v Attorney General* (n 110).

¹³³ *Katungi Tony v Attorney General* (n 110).

¹³⁴ JB Habimana (n 107) 175.

¹³⁵ Art 2(4) of the Protocol on the Establishment of the East African Common Market, 2009.

¹³⁶ J Gathii 'Mission creep or a search for relevance: the East African Court of Justice's human rights strategy' (2013) 24 *Duke Journal of Comparative and International Law* 249 at 260-265.

The Draft Bill on Cross-Border Legal Practice represents the most comprehensive attempt to establish a unified regulatory framework for cross-border legal practice within the EAC. Although never enacted, its provisions illuminate what a fully implemented regime might look like and reveal the obstacles that have prevented its adoption.

2.5.1 Background and Objectives

The Bill was presented to the East African Legislative Assembly in 2014, four years after the Common Market Protocol entered into force and during the period when Partner States were meant to be implementing their Annex V commitments,¹³⁷ reflecting recognition that piecemeal domestic reform was proving ineffective and that a Community-level instrument was needed. It drew authority from Article 126's mandate to harmonise legal training and facilitate movement of advocates,¹³⁸ Article 76's Common Market principle,¹³⁹ and Articles 10 and 11 of the Common Market Protocol on free movement of workers and mutual recognition of qualifications.¹⁴⁰ Its stated objectives were to promote cross-border legal practice, harmonise legal training and certification, establish common standards and rules, and facilitate free movement of legal services.¹⁴¹ Drafting involved consultation with Partner States' attorneys general, law councils, bar associations, and the EAC Secretariat,¹⁴² but the process exposed significant disagreement: Kenya and Rwanda broadly supported the framework, while Tanzania in particular expressed reservations, foreshadowing the Bill's ultimate failure.¹⁴³

2.5.2 Substantive Provisions

The Bill defined 'cross-border legal practice' broadly, as professional activity by an advocate enrolled in one Partner State carried out in another, whether or not the advocate is physically present there,¹⁴⁴ and defined 'advocate' by reference to home-state admission and enrolment alone, a form of mutual recognition under which qualification in one Partner State would suffice for practice throughout the Community, subject to the Bill's specific conditions.¹⁴⁵ Part II established an EAC Law Council to operate alongside national bar associations and law councils,¹⁴⁶ with five functions: regulating cross-border practice, advising the Sectoral Council

¹³⁷ H Trouille & M Binda (n 105) 92.

¹³⁸ Art 126 of the Treaty for the Establishment of the East African Community, 1999.

¹³⁹ As above, Art 76.

¹⁴⁰ Arts 10 & 11 of the Protocol on the Establishment of the East African Common Market, 2009.

¹⁴¹ Draft Bill on Cross-Border Legal Practice in the East African Community, 2014, art 3.

¹⁴² H Trouille & M Binda (n 105) 92.

¹⁴³ As above.

¹⁴⁴ Art 2 of the Draft Bill on Cross-Border Legal Practice in the East African Community, 2014.

¹⁴⁵ As above.

¹⁴⁶ As above, art 4(1).

and national bodies on related policy, exercising disciplinary control over cross-border practitioners, and any other prescribed duties.¹⁴⁷ Composed of representatives from each Partner State's national law council,¹⁴⁸ it would have had power to make regulations on certification, conduct, continuing education, and discipline.¹⁴⁹

Part III addressed certification: an advocate wishing to practise across borders would apply to their home state's National Law Council,¹⁵⁰ meeting requirements including enrolment and bar membership at home, a minimum two years in practice, and good standing.¹⁵¹ Certified advocates would remain subject to the host state's laws while practising there,¹⁵² and could appear before any court in any Partner State,¹⁵³ though Partner States could impose further conditions such as requiring association with a local advocate.¹⁵⁴ Part IV subjected cross-border practitioners to the disciplinary jurisdiction of their home law council, the EAC Law Council, and the host state's law council simultaneously,¹⁵⁵ with coordination mechanisms intended to ensure that a decision by one council would be recognised by the others.¹⁵⁶

2.5.3 Current Status and Challenges

More than a decade after its presentation, the Bill remains unenacted. Its immediate failure stemmed from Partner States' unwillingness to provide the political support needed for passage through the Legislative Assembly and acceptance by the Council of Ministers;¹⁵⁷ once consultations revealed substantial reservations, progress stalled.¹⁵⁸ Sovereignty concerns featured prominently, Tanzania in particular viewing a regional EAC Law Council with authority over cross-border practice as encroaching on national prerogatives to determine who may practise within its own borders.¹⁵⁹ Domestic bar associations also feared unfair competition from larger, better-resourced firms, particularly from Kenya's comparatively developed market,¹⁶⁰ while technical doubts persisted about whether the proposed Council would have adequate capacity to

¹⁴⁷ As above, art 4.

¹⁴⁸ As above, art 5.

¹⁴⁹ As above, art 6.

¹⁵⁰ As above, art 7.

¹⁵¹ As above, art 8.

¹⁵² As above, sec 16.

¹⁵³ As above, art 11.

¹⁵⁴ As above.

¹⁵⁵ As above, art 14.

¹⁵⁶ As above, art 15.

¹⁵⁷ Arts 49-62 of the Treaty for the Establishment of the East African Community, 1999.

¹⁵⁸ H Trouille & M Binda (n 105) 92.

¹⁵⁹ As above.

¹⁶⁰ HK Sigeti (n 101) 70-75.

regulate across seven Partner States and multiple languages,¹⁶¹ and about unresolved questions of overlapping discipline, professional indemnity insurance, and handling of client money across borders.¹⁶² The absence of detailed implementing regulations at the time of presentation compounded these doubts, creating a circular problem in which Partner States wanted to see regulations before committing to a framework that itself authorised those regulations only after enactment.¹⁶³ The Mutual Recognition Agreement's own failure in 2017, discussed below, removed a complementary instrument the Bill had been conceived to work alongside, and momentum dissipated once stakeholders concluded the underlying problem was political will rather than instrument design.¹⁶⁴ The Bill remains officially pending but has seen no active consideration in recent years, effectively dormant absent renewed political commitment.¹⁶⁵

The Bill's failure leaves the Community without a coordinated framework for cross-border practice, reinforcing the broader pattern of commitments made and left unimplemented, and denying advocates and clients the benefits the Common Market promised. Any future attempt would need to address sovereignty concerns through a more decentralised design relying on cooperation between national institutions, build in transitional provisions allowing domestic professions to adjust, resolve technical issues such as insurance and client protection before rather than after adoption, and, above all, secure genuine political commitment from Partner States' leadership.

2.6 Mutual Recognition Agreements (MRAs)

Mutual Recognition Agreements offer an alternative to the comprehensive regulatory framework proposed in the Cross-Border Legal Practice Bill, focusing instead on mechanisms for Partner States to recognise each other's professional qualifications directly. Understanding this framework, and its failure for legal services specifically, illuminates the particular obstacles facing this sector.

2.6.1 The 2011 MRA Framework

Mutual recognition means that qualifications obtained in one jurisdiction are accepted as valid in another without requiring repetition of qualification processes.¹⁶⁶ The EAC began developing MRA frameworks in 2011 to implement Article 11 of the Common Market Protocol, which

¹⁶¹ H Trouille & M Binda (n 105) 92.

¹⁶² As above.

¹⁶³ Art 6 of the Draft Bill on Cross-Border Legal Practice in the East African Community, 2014.

¹⁶⁴ H Trouille & M Binda (n 105) 92.

¹⁶⁵ EAC 'Pending bills' <https://www.eala.org/documents/category/bills> (accessed 15 December 2025).

¹⁶⁶ J Lonbay (n 46) 1640-1645.

requires Partner States to harmonise and mutually recognise academic and professional qualifications,¹⁶⁷ an approach premised on the view that complete harmonisation of educational systems may be difficult in the short term, but that qualifications assessed as substantially equivalent can still be mutually recognised.¹⁶⁸ The 2011 framework proposed for professional services, including legal services, would establish procedures for evaluating and recognising qualifications from other Partner States,¹⁶⁹ subject to possible supplementary training, examinations, or supervised practice to address specific gaps.¹⁷⁰

MRAs typically share several elements: competent authorities in each Partner State responsible for recognition decisions,¹⁷¹ specification of which qualifications, academic, professional, and practice experience, are recognised,¹⁷² procedures and timelines for applications,¹⁷³ appeal mechanisms for negative decisions,¹⁷⁴ and ongoing cooperation between competent authorities to ensure consistent application.¹⁷⁵ The approach's theoretical advantage over comprehensive harmonisation is that it respects Partner States' regulatory autonomy, can proceed sector-by-sector, and can be implemented more quickly since it requires agreement only on recognition procedures rather than substantive legal harmonisation.

2.6.2 Success in Other Professions

The EAC's experience with MRAs in other professions shows the approach can work where political will exists. Accounting was the first to achieve an operational MRA, for Registered and Certified Public Accountants, entering into force in 2011,¹⁷⁶ recognising that differing national accounting education and certification systems need not prevent mutual recognition of qualified practitioners.¹⁷⁷ Accountants apply to their home professional body for regional certification, which other Partner States must then recognise,¹⁷⁸ and the MRA has facilitated substantial cross-border practice, with numerous accountants obtaining regional certification and establishing practice or employment elsewhere in the Community.¹⁷⁹ Engineering achieved an MRA too,

¹⁶⁷ Art 11 of the Protocol on the Establishment of the East African Common Market, 2009.

¹⁶⁸ J Lonbay (n 46) 1645.

¹⁶⁹ EAC 'Mutual recognition agreements' <https://www.eac.int/education/mutual-recognition-agreements> (accessed 15 December 2025).

¹⁷⁰ As above.

¹⁷¹ As above.

¹⁷² As above.

¹⁷³ As above.

¹⁷⁴ As above.

¹⁷⁵ As above.

¹⁷⁶ East African Community 'Mutual recognition agreement for registered and certified public accountants' <https://www.icpak.com/eacia-mutual-recognition-agreement/> (accessed 15 December 2025).

¹⁷⁷ As above.

¹⁷⁸ As above.

¹⁷⁹ HK Sigeti (n 101) 62.

though with more limited practical uptake,¹⁸⁰ constrained by limited awareness, complex procedures, and inconsistent domestic implementation.¹⁸¹ Medicine, architecture, and veterinary practice have developed or are developing comparable agreements.¹⁸² This pattern, success in accounting, partial success elsewhere, makes the legal services MRA's complete failure particularly striking, suggesting the obstacles there are not primarily technical but reflect concerns specific to liberalising the legal profession.

2.6.3 Failure of Legal Services MRA

The proposed legal services MRA, drafted in 2011, has never entered into force despite more than a decade of discussion. Its most significant moment came in 2017, when Partner States' attorneys general met to consider signing it and instead collectively declined, citing several unresolved concerns.¹⁸³ These included disagreement over the appropriate level of signatory, doubts about Partner States' capacity to implement the required legal changes, the absence of national legislation implementing the Common Market Protocol's provisions on legal services, and unresolved disagreements over specific MRA provisions.¹⁸⁴

The signatory question, though apparently procedural, reflected deeper unease: some attorneys general argued an agreement touching national regulatory sovereignty required ministerial or head-of-state signature rather than their own, effectively raising the political bar for adoption.¹⁸⁵ Concerns about implementation capacity centred on the need to amend Advocates Acts and related legislation against competing parliamentary priorities and anticipated resistance from domestic professions,¹⁸⁶ a concern reflecting limited political will rather than genuine impossibility. The argument that national implementing legislation should precede the MRA inverted the MRA's intended role as a vehicle for implementing exactly those obligations, creating a circular justification for inaction.¹⁸⁷ The substantive disagreements, over permissible supplementary requirements, disciplinary coordination, transition periods, and treatment of common law versus civil law training, were genuine but not, on their own, insurmountable.¹⁸⁸

¹⁸⁰ EAC 'Mutual recognition agreement for engineers' <https://erb.go.ug/wp-content/uploads/2024/09/MRA-Agreement-7.12.2012.pdf> (accessed 15 December 2025).

¹⁸¹ As above.

¹⁸² As above.

¹⁸³ H Trouille & M Binda (n 105) 92.

¹⁸⁴ As above.

¹⁸⁵ As above.

¹⁸⁶ As above.

¹⁸⁷ As above.

¹⁸⁸ As above.

Underlying these stated concerns were protectionist pressures: legal professional associations in several Partner States lobbied against the MRA on competition and quality grounds, finding receptive audiences among attorneys general and law councils, with no comparable counter-pressure from clients or business communities who stood to benefit.¹⁸⁹ No significant progress has followed the 2017 meeting; periodic regional discussions have produced no concrete steps toward signature.¹⁹⁰ Combined with the Bill's failure, this leaves the EAC without any operational Community-level instrument for legal services, more than a decade after Partner States committed to liberalisation. The consequence is a vacuum: advocates have no clear pathway to recognition, law councils make ad hoc decisions absent any agreed framework, and clients needing cross-border services must engage separate lawyers in each jurisdiction. A workable path forward would need to resolve the technical questions, supplementary requirements limited to what is necessary and proportionate, a coordinating disciplinary mechanism, phased implementation, and provisions bridging common law and civil law training, but technical fixes alone will not succeed without genuine political commitment from Partner States' leadership to prioritise integration over protectionist pressure.

2.7 Other Relevant EAC Instruments

Beyond the Treaty, Common Market Protocol, Annex V, the proposed Bill, and Mutual Recognition Agreements, several other instruments bear on cross-border legal practice and complete the picture of Uganda's international legal obligations.

2.7.1 EAC Common Market (Free Movement of Workers) Regulations

The Free Movement of Workers Regulations, contained in Annex II to the Common Market Protocol and adopted in November 2009, govern movement of workers within the Community.¹⁹¹ These are directly relevant to cross-border legal practice because lawyers, whether independent or employed, fall within the regulations' definition of 'worker' when moving to another Partner State for employment.¹⁹² That definition covers any national of a Partner State in or seeking paid employment in another,¹⁹³ encompassing lawyers employed by firms, corporate legal departments, or government and NGO legal offices. Article 3 establishes the fundamental

¹⁸⁹ HK Sigei (n 101) 75.

¹⁹⁰ H Trouille & M Binda (n 105) 92.

¹⁹¹ East African Community Common Market (Free Movement of Workers) Regulations, Annex II, November 2009.

¹⁹² BK Twinomugisha 'Cross border legal practice in an integrated East African Community' (2011) 18 *The East African Lawyer* 3.

¹⁹³ East African Community Common Market (Free Movement of Workers) Regulations, Annex II, November 2009, art 1.

right of workers to move freely for employment purposes,¹⁹⁴ Article 4 prohibits entry visa requirements as a condition of taking up employment,¹⁹⁵ and Article 7 requires progressive elimination of work-permit requirements,¹⁹⁶ though Uganda continues to require work permits for foreign workers, including EAC nationals, notwithstanding simplified procedures and reduced fees for the latter.¹⁹⁷

Article 10 requires equal treatment of workers from other Partner States in employment conditions, remuneration, dismissal, social security, trade union rights, and access to training,¹⁹⁸ meaning, for example, that a Rwandan lawyer employed by a Ugandan firm must receive the same salary, benefits, and professional development opportunities as Ugandan colleagues. Article 12 requires Partner States to establish procedures recognising qualifications obtained elsewhere in the Community so that workers are not denied opportunities through non-recognition,¹⁹⁹ reinforcing the mutual recognition obligations found elsewhere in the Common Market framework. Article 15 creates a Common Market Scorecard to monitor implementation,²⁰⁰ though its value depends on accurate Partner State reporting and willingness to act on identified gaps. These Regulations address lawyers moving as employees, complementing rather than displacing the Protocol's separate provisions on free movement of services for lawyers practising independently; compliance for Uganda requires eliminating remaining visa and work-permit barriers, ensuring non-discriminatory employment practices, and establishing genuine qualification-recognition procedures, matters examined further in Chapter Three.

2.7.2 EAC Council of Ministers' Decisions

The Council of Ministers has adopted various decisions, less formal than protocols or regulations but still providing guidance on implementation, relevant to cross-border legal practice.²⁰¹ Decision EAC/CM/17/2010 established a framework for monitoring Partner States' progress on Common Market obligations, including reporting requirements on free movement of services and workers.²⁰² Several decisions addressing mutual recognition in specific professions, principally accounting, where MRAs have succeeded, establish principles

¹⁹⁴ As above, art 3.

¹⁹⁵ As above, art 4.

¹⁹⁶ As above, art 7.

¹⁹⁷ Uganda Immigration 'Work permits' <https://www.immigration.go.ug/services/work-permit> (accessed 15 December 2025).

¹⁹⁸ East African Community Common Market (Free Movement of Workers) Regulations, Annex II, November 2009, art 10.

¹⁹⁹ As above, art 12.

²⁰⁰ As above, art 15.

²⁰¹ Art 14 of the Treaty for the Establishment of the East African Community, 1999.

²⁰² EAC 'Council decisions' <https://www.eac.int/documents/category/council-decisions> (accessed 15 December 2025).

transferable to legal services:²⁰³ that recognition should rest on substantial equivalence rather than identical qualifications, that supplementary requirements be limited to genuine competency gaps, and that procedures be transparent and timely.²⁰⁴ Decision EAC/CM/25/2015 called on Partner States to review domestic laws for consistency with Common Market obligations, directly implicating Uganda's Advocates Act.²⁰⁵

Council decisions nonetheless carry less binding force than Treaty or Protocol provisions, the Council's role being to coordinate implementation rather than create new obligations,²⁰⁶ and they have proven most effective where they offer specific technical guidance rather than attempt to resolve fundamental disagreements among Partner States, which can simply decline to implement them. Decisions calling for harmonisation and implementation are adopted regularly, but actual implementation consistently lags behind, illustrating the broader pattern in EAC integration whereby securing rhetorical commitment proves far easier than securing follow-through.²⁰⁷

2.7.3 East African Court of Justice Jurisprudence

The East African Court of Justice, the Community's judicial organ,²⁰⁸ has jurisdiction under Articles 23-44 of the Treaty to ensure adherence to law in the Treaty's interpretation, application, and compliance,²⁰⁹ extending to disputes between Partner States, between the Community and its employees, and between individuals or entities and Partner States.²¹⁰ This broad jurisdiction means advocates denied cross-border practice rights could potentially bring claims challenging Partner States' non-implementation.

Several decisions establish principles relevant here. In *Anyang' Nyong'o v Attorney General of Kenya*, the Court held that Treaty principles such as good governance must be applied and enforced, establishing that the Treaty creates justiciable individual rights rather than merely political commitments.²¹¹ In *Samuel Mukira Mobochi v Attorney General of Uganda*, concerning customs procedures rather than professional services, the Court nonetheless articulated a non-discrimination principle of direct relevance here.²¹² Partner States cannot treat nationals of other

²⁰³ As above.

²⁰⁴ As above.

²⁰⁵ As above.

²⁰⁶ Art 14 of the Treaty for the Establishment of the East African Community, 1999.

²⁰⁷ J Gathii 'African regional trade agreements as flexible legal regimes' (2010) 35 *North Carolina Journal of International Law and Commercial Regulation* 571 at 590-595.

²⁰⁸ Art 23 of the Treaty for the Establishment of the East African Community, 1999.

²⁰⁹ As above, art 27.

²¹⁰ As above, arts 27-30.

²¹¹ *Anyang' Nyong'o v Attorney General of Kenya*, EACJ Reference 1 of 2006.

²¹² *Samuel Mukira Mobochi v Attorney General of Uganda*, EACJ Reference 5 of 2011.

Partner States less favourably without objective justification, a principle that applies squarely to admission to legal practice.²¹³ *James Katabazi and 21 Others v Secretary General of the East African Community and Attorney General of Uganda* addressed the relationship between sovereignty and Community obligations:²¹⁴ the Court held that Partner States, while retaining sovereignty, have voluntarily limited it through Treaty commitments and must respect those limitations, foreclosing sovereignty as a blanket justification for non-compliance, including in the cross-border practice context where it is frequently invoked.²¹⁵

Most directly relevant is *Samuel Gatari and 2 Others v Attorney General of Kenya*, filed in 2020, in which Rwandan lawyers and the Rwandan government challenged Kenya's refusal to admit Rwandan-trained lawyers to practice.²¹⁶ The reference alleged violations of Treaty Articles 76, 104, and 126 and Protocol Articles 2(4), 10, 11, and 16 through discrimination based on civil law training.²¹⁷ No final judgment had issued as of this writing, but the case directly tests the common law/civil law distinction Kenya and Uganda invoke to justify exclusion; a ruling against Kenya would require both states to develop alternative pathways, such as supplementary training or examinations, for civil-law-trained applicants rather than excluding them outright.²¹⁸

Beyond specific cases, the Court has adopted a teleological approach to interpretation, favouring readings that advance the Treaty's objectives over narrow technical readings that would frustrate them,²¹⁹ and an effectiveness principle requiring that provisions be interpreted to have genuine practical effect rather than permitting nominal compliance that leaves barriers intact.²²⁰ Both principles favour expansive reading of free movement provisions in any future cross-border practice litigation. The Court's practical reach is nonetheless limited: it cannot enforce its own judgments and depends on Partner States' voluntary compliance, with diplomatic pressure or Summit and Council action as the only recourse against a non-complying state,²²¹ recourse that proves ineffective where other Partner States are unwilling to confront one another,²²² and its limited resources and case backlog mean litigation can take years, making this avenue impractical

²¹³ As above.

²¹⁴ *James Katabazi and 21 Others v Secretary General of the East African Community and Attorney General of Uganda*, EACJ Reference 1 of 2007.

²¹⁵ As above.

²¹⁶ *Samuel Gatari & 2 Others v Attorney General of Kenya*, EACJ Reference 6 of 2020.

²¹⁷ As above.

²¹⁸ As above.

²¹⁹ J Gathii 'Mission creep or a search for relevance: the East African Court of Justice's human rights strategy' (2013) 24 *Duke Journal of Comparative and International Law* 249 at 255-260.

²²⁰ As above.

²²¹ As above, 260-265.

²²² As above.

for many advocates with otherwise strong claims.²²³ Despite these limitations, the Court's jurisprudence on non-discrimination, interpretation, and the limits of sovereignty constrains Partner States' room to maintain barriers, and a clearer ruling in *Gatare* specifically would sharpen that constraint considerably for cross-border legal practice.

2.8 Additional International Laws

Beyond specific EAC instruments and comparative frameworks, general principles of international law underpin Uganda's obligations regarding cross-border legal practice: the WTO's General Agreement on Trade in Services, the principle of *pacta sunt servanda*, treaty interpretation under the Vienna Convention, and the relationship between international and domestic law.

2.8.1 WTO General Agreement on Trade in Services (GATS)

The WTO's General Agreement on Trade in Services supplies the multilateral framework for services liberalisation globally and has influenced the EAC's own approach,²²⁴ relevant here both because EAC instruments draw on its concepts and because GATS establishes baseline obligations that may operate alongside regional ones.²²⁵ Adopted in 1994, GATS creates a framework for progressive liberalisation through negotiated member commitments,²²⁶ applying to all service sectors, including legal services, across the now-familiar four modes of supply,²²⁷ a structure Annex V itself adopts as the standard approach to categorising services trade.²²⁸ GATS establishes two types of obligation: general obligations binding all members regardless of specific commitments, and scheduled commitments members make sector by sector.²²⁹ The most important general obligation is most-favoured-nation treatment,²³⁰ requiring equal treatment among foreign service providers, though not between foreign and domestic ones.²³¹ Specific commitments concern market access and national treatment, with members listing any limitations they retain.²³² Many WTO members, including EAC Partner States, have scheduled

²²³ As above.

²²⁴ S Stephenson, 'General Agreement on Trade in Services and regional integration' in P Sauvé & RM Stern (eds), *General Agreement on Trade in Services 2000: new directions in services trade liberalization* (2000) 509, 512.

²²⁵ A Mattoo, 'National treatment in the GATS: corner-stone or pandora's box?' (1997) 31 *Journal of World Trade* 107, 110.

²²⁶ General Agreement on Trade in Services (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 183.

²²⁷ As above art I(2).

²²⁸ Stephenson (n 224) 518.

²²⁹ General Agreement on Trade in Services (n 226) arts II, XVI-XVII.

²³⁰ As above art II.

²³¹ Mattoo (n 225), 125.

²³² General Agreement on Trade in Services (n 226) arts XVI-XVII.

only limited commitments on legal services.²³³ Uganda's own schedule permits foreign lawyers to advise on home-country and international law but restricts advice on Ugandan law and appearance before Ugandan courts,²³⁴ reflecting the same protectionist posture evident at the regional level discussed throughout this chapter.²³⁵

GATS Article V permits regional integration arrangements to liberalise beyond members' scheduled commitments, provided certain conditions are met,²³⁶ creating legal space for the EAC to adopt rules more liberal than Uganda's GATS schedule requires.²³⁷ The Common Market Protocol operates as precisely such an arrangement, going beyond Uganda's multilateral commitments.²³⁸ The EAC framework has visibly drawn on GATS in its four-mode structure,²³⁹ its market access and national treatment concepts,²⁴⁰ and its progressive, schedule-based approach to liberalisation,²⁴¹ while also recognising, as GATS does, that legitimate regulatory objectives may justify restrictions that are necessary and proportionate.²⁴² The frameworks diverge in ambition: GATS tolerates scheduled restrictions, while the EAC's Common Market principles and non-discrimination requirement aim higher;²⁴³ where GATS focuses primarily on negative integration (removing barriers), the EAC also pursues positive integration through harmonisation and mutual recognition;²⁴⁴ and where GATS relies on multilateral negotiation and WTO dispute settlement, the EAC involves closer cooperation among a smaller, more aligned group of states.²⁴⁵

For Uganda, its GATS commitments represent only a floor; its EAC obligations require going considerably further,²⁴⁶ and Uganda cannot invoke its limited GATS schedule to justify restrictive practice within the EAC, since the regional obligations are the more demanding of the two,²⁴⁷ while GATS's own necessity and proportionality principles apply with equal force to any restrictions Uganda seeks to maintain under its EAC commitments.²⁴⁸ GATS offers useful

²³³ M Roy, J Marchetti & H Lim, 'Services liberalization in the new generation of preferential trade agreements' (2007) 6 *World Trade Review* 155, 172.

²³⁴ Uganda Schedule of Specific Commitments, GATS/SC/144 (15 April 1994).

²³⁵ Mattoo (n 225) 130.

²³⁶ General Agreement on Trade in Services (n 226) art V.

²³⁷ Stephenson (n 224) 528.

²³⁸ As above 532.

²³⁹ General Agreement on Trade in Services (n 226) art I(2).

²⁴⁰ As above arts XVI-XVII.

²⁴¹ Mattoo (n 225) 138.

²⁴² S Charnovitz, 'The legal status of the Doha declarations' (2002) 5 *Journal of International Economic Law* 207, 215.

²⁴³ Stephenson (n 224) 540.

²⁴⁴ Roy, Marchetti & Lim (n 233) 185.

²⁴⁵ Mattoo (n 225) 145.

²⁴⁶ Stephenson (n 224) 548.

²⁴⁷ As above 552.

²⁴⁸ General Agreement on Trade in Services (n 226) art VI(4).

concepts for analysing modes of supply, commitment types, and the balance between liberalisation and legitimate regulation,²⁴⁹ but its broader record is instructive: decades of operation have produced only limited liberalisation of professional services multilaterally, with many members, including EAC states, retaining extensive restrictions on legal services despite their GATS membership.²⁵⁰ This suggests regional frameworks with stronger integration commitments are necessary to achieve what multilateral liberalisation alone has not; whether the EAC realises that potential depends on implementation, which, as this chapter has shown, has thus far fallen well short.²⁵¹

2.8.2 Pacta Sunt Servanda

Pacta sunt servanda, the fundamental rule that treaties must be performed in good faith and codified in Article 26 of the Vienna Convention, establishes that every treaty in force binds its parties and must be performed by them in good faith.²⁵² This confirms that Uganda's obligations under the EAC Treaty and Common Market Protocol are binding legal obligations rather than political aspirations Uganda may disregard when convenient; Uganda's failure to amend the Advocates Act despite commitments made more than a decade ago itself constitutes a violation of this principle.²⁵³ Good faith performance requires more than technical compliance: it prohibits Uganda from taking action that undermines the Treaty's objectives even where no specific provision is technically violated, for instance, permitting foreign lawyers to practise in form while imposing procedural requirements so onerous that none could realistically succeed.²⁵⁴ Article 27 of the Vienna Convention reinforces this by providing that a party may not invoke its internal law to justify failure to perform a treaty,²⁵⁵ meaning Uganda cannot defend non-compliance by pointing to the Constitution, the Advocates Act, or any other domestic provision; where domestic law conflicts with treaty obligations, the obligation is to amend the domestic law, not to excuse non-performance by reference to it.

Pacta sunt servanda carries particular weight in the EAC context, where Partner States have repeatedly made regional commitments they then failed to implement domestically, a pattern that erodes trust and undermines the integration process. Uganda's obligations under Articles 76, 104, and 126 of the Treaty, Articles 2(4), 10, 11, and 16 of the Protocol, and its own Annex V

²⁴⁹ Mattoo (n 225) 152.

²⁵⁰ Roy, Marchetti & Lim (n 233) 198.

²⁵¹ Stephenson (n 224) 560.

²⁵² Vienna Convention on the Law of Treaties, adopted 23 May 1969, entered into force 27 January 1980, 1155 UNTS 331, art 26.

²⁵³ As above.

²⁵⁴ As above, art 31(1).

²⁵⁵ As above, art 27.

commitment, all fall within this principle's reach; with the 2015 deadline now more than eight years past, continued non-compliance is a continuing violation of the basic rule that treaties must be performed in good faith.

2.8.3 Treaty Interpretation (Vienna Convention)

Articles 31-33 of the Vienna Convention codify customary international law principles of treaty interpretation applicable to the EAC Treaty and Protocol.²⁵⁶ Article 31(1)'s general rule requires interpretation in good faith according to the ordinary meaning of treaty terms in their context and in light of the treaty's object and purpose, these elements considered together rather than in isolation.²⁵⁷ Applied here, the ordinary meaning of 'facilitate' in Article 126(2)(b) connotes enabling and assisting, not merely refraining from prohibition,²⁵⁸ while context includes the Treaty's preamble and annexes and related instruments such as the Common Market Protocol and Annex V, reinforcing that cross-border practice obligations form part of a single, comprehensive integration framework.²⁵⁹ Object and purpose interpretation draws on Article 5's objectives of widening and deepening cooperation and achieving free movement, supporting broad readings of provisions that advance free movement and narrow readings of anything that would limit it.²⁶⁰ Article 31(3) permits recourse to subsequent practice, subsequent agreements on interpretation, and relevant rules of international law as supplementary interpretive aids,²⁶¹ Partner States' patterns of non-implementation here illustrating implementation failure requiring correction rather than establishing any right to non-compliance. Article 32 permits further recourse to preparatory work where Article 31 leaves meaning ambiguous or leads to manifestly unreasonable results,²⁶² though such materials remain supplementary and cannot override ordinary meaning, context, and object and purpose.

Applied together, these principles support broad, integration-promoting readings of Uganda's obligations: ordinary meaning requires meaningful liberalisation rather than cosmetic change, context confirms the mandatory character of the relevant provisions, and the Treaty's object and purpose favour removing barriers over preserving them. Uganda's obligations cannot be read narrowly to permit retaining essentially its pre-Treaty restrictive framework while claiming technical compliance through minor procedural adjustment; the 2015 Annex V deadline

²⁵⁶ As above, arts 31-33.

²⁵⁷ As above, art 31(1).

²⁵⁸ Oxford English Dictionary 'Facilitate' <https://www.oed.com> (accessed 15 December 2025).

²⁵⁹ Vienna Convention on the Law of Treaties (n 252) art 31(2).

²⁶⁰ Art 5 of the Treaty for the Establishment of the East African Community, 1999.

²⁶¹ Vienna Convention on the Law of Treaties (n 252) art 31(3).

²⁶² As above, art 32.

represented a commitment to substantive change, and continued non-compliance is inconsistent with the obligations as properly interpreted.

2.8.4 Supremacy of International Law

Under international law, as Article 27 of the Vienna Convention reflects, states cannot invoke domestic law to justify non-performance of treaty obligations,²⁶³ meaning that, from an international law perspective, Uganda's treaty obligations prevail over any inconsistent domestic provision and Uganda cannot defend non-compliance before the East African Court of Justice or other international forums by pointing to domestic law as an obstacle. The domestic legal status of those obligations within Uganda is a separate question, governed by Uganda's dualist constitutional approach, under which treaties do not automatically become part of domestic law on ratification but require incorporating legislation,²⁶⁴ Article 123(1) of the Constitution providing that Parliament shall legislate on ratification and incorporation procedure.²⁶⁵ The practical consequence is that an advocate denied admission under Section 13(8) of the Advocates Act cannot currently rely directly on Article 2(4) of the Common Market Protocol's non-discrimination requirement before Ugandan courts, since the Protocol has not been incorporated through implementing legislation and so lacks direct domestic effect.²⁶⁶

This dualism nonetheless affects only the mechanism of compliance, not the underlying obligation: Uganda remains internationally bound by its Treaty and Protocol commitments regardless of domestic incorporation, and the absence of implementing legislation is itself a failure to fulfil those obligations rather than an excuse for it.²⁶⁷ Article 123(2) of the Constitution, providing that ratified agreements 'shall form part of the law of Uganda',²⁶⁸ creates some textual ambiguity, but Ugandan courts have generally read it consistently with the dualist tradition, requiring implementing legislation for direct enforceability, particularly where compliance would require amending existing legislation or committing government resources.²⁶⁹ The principle of consistent interpretation offers a partial, if limited, alternative route: courts have recognised that domestic legislation should, where possible, be read consistently with Uganda's international obligations,²⁷⁰ though Section 13(8)'s explicit nationality and place-of-study language leaves little

²⁶³ As above, art 27.

²⁶⁴ JB Ojwang 'The role of the judiciary in promoting environmental compliance and sustainable development' (2007) 1 *Kenya Law Review* 19 at 25-28.

²⁶⁵ Art 123(1) of the Constitution of the Republic of Uganda, 1995.

²⁶⁶ JWK Mugambwa 'The reception of international law into Ugandan municipal law' (2008) 8 *African Human Rights Law Journal* 579 at 585-590.

²⁶⁷ Vienna Convention on the Law of Treaties (n 252) art 27.

²⁶⁸ Art 123(2) of the Constitution of the Republic of Uganda, 1995.

²⁶⁹ JWK Mugambwa (n 266) 590-595.

²⁷⁰ As above, 595-598.

room for such interpretation without doing violence to the statutory text. The East African Community Integration Act provides some general domestic foundation for Uganda's integration obligations, but its general provisions cannot override the Advocates Act's specific restrictions;²⁷¹ only targeted amendment of the Advocates Act itself can achieve genuine compliance.

Combined with *pacta sunt servanda*, the supremacy principle means Uganda cannot indefinitely decline to enact necessary implementing legislation while pointing to its dualist system as the obstacle: international law requires states to organise their domestic legal systems in ways that enable compliance,²⁷² and if Uganda's current legislative priorities prevent timely enactment, those priorities, not the international obligation, must give way.

2.9 Conclusion

The international legal framework governing cross-border legal practice in Uganda within the EAC is comprehensive and unambiguous. Articles 76, 104, and 126 of the Treaty create foundational obligations to facilitate free movement of advocates and services and to harmonise legal training and certification, which the Common Market Protocol operationalises through provisions on non-discrimination, free movement, and mutual recognition. Annex V establishes Uganda's specific commitment to liberalise legal services by 2015, reinforced by the Free Movement of Workers Regulations, Council decisions, and Court jurisprudence. Comparative frameworks from the European Union, ECOWAS, and SADC, together with WTO GATS principles, demonstrate that regional integration in professional services is achievable given appropriate legal frameworks, enforcement mechanisms, and political will, and that legal system differences need not prevent implementation. General principles of international law, including *pacta sunt servanda* and Vienna Convention interpretive principles, confirm that Uganda's obligations are binding requirements, not aspirational goals.

This comprehensive framework has nonetheless not translated into effective implementation. Uganda's 2015 deadline passed more than eight years ago without meaningful progress, the Cross-Border Legal Practice Bill remains unenacted, the 2017 Mutual Recognition Agreement signing failed and has not been revived, and the Advocates Act continues to maintain restrictions that violate Uganda's obligations. The following chapter examines Uganda's domestic framework in detail to assess this incompatibility and identify the reforms necessary for compliance.

²⁷¹ East African Community Integration Act, 2002 (Uganda).

²⁷² Vienna Convention on the Law of Treaties (n 252) art 27.

CHAPTER THREE

UGANDA'S DOMESTIC LEGAL FRAMEWORK AND COMPATIBILITY WITH EAC OBLIGATIONS

- 3.1 Introduction
- 3.2 Constitutional Framework
- 3.3 The Advocates Act (Cap. 295): Statutory Analysis and Judicial Interpretation
- 3.4 The Law Council: Regulatory Role and Institutional Barriers
- 3.5 The Law Development Centre Act
- 3.6 Other Relevant Legislation
- 3.7 Gap Analysis: Uganda's Compliance Deficit
- 3.8 Conclusion

3.1 Introduction

This chapter examines Uganda's domestic legal framework governing the practice of law and assesses its compatibility with the country's EAC Treaty obligations, identifying where national legislation facilitates or impedes cross-border legal practice through scrutiny of constitutional provisions, statutory instruments, institutional mechanisms, and judicial interpretation.

The chapter proceeds through Uganda's constitutional framework, the Advocates Act and its restrictive provisions, with relevant case law analysed within the statutory discussion to which it relates, the role of the Law Council and Law Development Centre, and other relevant legislation, before concluding with a gap analysis that establishes the foundation for Chapter Four's examination of implementation challenges. The comparative dimension relative to other EAC Partner States is addressed in Chapter Five.

3.2 Constitutional Framework

Uganda's constitutional framework provides the foundational legal structure within which all legislation, including laws governing the legal profession, must operate. This section examines the constitutional provisions relevant to cross-border legal practice, including supremacy principles, fundamental rights, treaty-making procedures, and commitments to regional integration.

3.2.1 The Constitution of Uganda (1995)

The Constitution of the Republic of Uganda serves as the supreme law of the land and provides the foundational legal framework within which all other legislation must operate.¹ Article 2 of the Constitution establishes the supremacy principle, stating that any law or custom that is inconsistent with any provision of the Constitution is void to the extent of the inconsistency, and any act or omission that contravenes the Constitution is illegal.² This supremacy clause has significant implications for the implementation of international treaty obligations, including those arising from Uganda's membership in the East African Community.

The Constitution contains several provisions relevant to cross-border legal practice and regional integration. Article 20 provides for fundamental rights and freedoms of the individual, which include the right to freedom of movement, the right to work, and the right to practice any lawful profession, trade or business.³ Article 29(2)(d) specifically guarantees every person the freedom to practice any lawful profession, occupation or trade.⁴ These constitutional guarantees provide a foundational basis for arguing that restrictions on cross-border legal practice may contravene fundamental rights, particularly when such restrictions discriminate based on nationality without reasonable justification.

Furthermore, the Constitution recognises the importance of work and economic rights. Article 40 provides that Parliament shall enact laws to provide for the right of persons to work under satisfactory, safe and healthy conditions, to ensure equal payment for equal work without discrimination, and to ensure that every worker is accorded rest and reasonable working hours.⁵ While this provision addresses workers' rights domestically, it establishes a constitutional framework that values labour mobility and non-discrimination in employment, principles that are directly relevant to the free movement of legal professionals within the EAC framework.

The Constitution also addresses the issue of dual citizenship, which has implications for cross-border professional practice. Article 15 permits dual citizenship, reversing the previous constitutional prohibition that had required Ugandans who acquired citizenship of another country to renounce their Ugandan citizenship.⁶ The Constitutional Amendment Act of 2005 amended Article 15 to allow dual citizenship, thereby removing one potential barrier to regional

¹ Constitution of the Republic of Uganda, 1995, art 2(1).

² As above, art 2(2).

³ As above, art 20.

⁴ As above, art 29(2)(d).

⁵ As above, art 40.

⁶ As above, art 15.

integration and cross-border professional practice.⁷ This constitutional development aligns with the spirit of EAC integration by facilitating greater mobility and reducing nationality-based discrimination.

3.2.2 National Objectives and Directive Principles

The National Objectives and Directive Principles of State Policy, contained in the Constitution, provide important guidance on Uganda's commitment to regional integration and cooperation. Objective XXVIII on regional cooperation explicitly commits Uganda to fostering regional integration and cooperation.⁸ This objective states that Uganda shall actively participate in international and regional organisations that stand for peace and for the wellbeing and progress of humanity, and that Uganda shall promote the integration of Africa and cooperation among African states.⁹

The constitutional commitment to regional integration under Objective XXVIII directly supports Uganda's obligations under the EAC Treaty. The objective reflects a constitutional endorsement of regional cooperation and integration efforts, including those that involve harmonisation of laws and policies across Partner States.¹⁰ This constitutional provision provides a normative foundation for implementing EAC obligations, including those relating to cross-border legal practice, as such implementation furthers the constitutional objective of regional integration.

Objective XXVIII(b) specifically provides that Uganda shall promote and participate in regional and international cooperation for the social, political, and economic development of Africa, and that Uganda shall cooperate with other African states and peoples in furtherance of common political, economic, social, and cultural interests.¹¹ This provision establishes that regional cooperation is not merely permissive but is an active constitutional obligation of the Ugandan state. The directive to promote regional cooperation in social, political, and economic development necessarily encompasses cooperation in areas such as professional services, including legal services, which are essential to economic development and regional trade.

⁷ Constitution (Amendment) Act, 2005 (Uganda), s 3.

⁸ Constitution of the Republic of Uganda, 1995, National Objectives and Directive Principles of State Policy, Objective XXVIII.

⁹ As above.

¹⁰ JWK Mugambwa 'A comparative analysis of the transformation of East African legal systems since independence' (2007) 11 *Electronic Journal of Comparative Law* 1 at 5.

¹¹ Constitution of the Republic of Uganda, 1995, National Objectives and Directive Principles of State Policy, Objective XXVIII(b).

The National Objectives and Directive Principles, while not directly justiciable, provide interpretive guidance for understanding and applying other constitutional provisions.¹² Article 8(2) of the Constitution provides that the objectives and principles shall guide all organs and agencies of the State, all citizens, organisations and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing any policy decisions for the establishment and promotion of a just, free and democratic society.¹³ Therefore, when interpreting provisions of the Advocates Act or other legislation affecting cross-border legal practice, courts and other state organs should be guided by the constitutional objective of promoting regional integration and cooperation.

3.2.3 Ratification and Domestication of Treaties

The Constitution establishes specific procedures for the ratification and domestication of international treaties, which are directly relevant to understanding Uganda's obligations under the EAC Treaty. Article 123 governs the making of treaties and provides the constitutional framework for Uganda's engagement with international law.¹⁴ Article 123(1) states that the President may make treaties, conventions, agreements or other arrangements between Uganda and any other country or between Uganda and any international organisation, in respect of any matter, with the approval of Parliament given by resolution.¹⁵

The requirement of parliamentary approval for treaties reflects the constitutional principle of democratic oversight over international commitments.¹⁶ In the case of the EAC Treaty, Uganda ratified the Treaty in accordance with this constitutional requirement, with Parliament approving the Treaty through a resolution.¹⁷ This parliamentary approval signifies that the EAC Treaty, including its obligations regarding cross-border legal practice, represents a national commitment made through Uganda's highest democratic processes. The Treaty is not merely an executive agreement but reflects a deliberate national decision endorsed by the people's elected representatives.

However, the Constitution also addresses the question of how international treaties relate to domestic law. Article 123(2) provides that the making of a treaty does not alter the domestic law of Uganda, but the treaty shall be ratified by an Act of Parliament before it becomes part of the

¹² JWK Mugambwa 'The reception of international law into Ugandan municipal law' (2008) 8 *African Human Rights Law Journal* 579 at 585.

¹³ Constitution of the Republic of Uganda, 1995, art 8(2).

¹⁴ As above, art 123.

¹⁵ As above, art 123(1).

¹⁶ JWK Mugambwa (n 12) 590.

¹⁷ East African Community Act, Cap 187 (Uganda).

domestic law of Uganda.¹⁸ This provision establishes a dualist approach to international law, requiring separate domestic legislation to give effect to treaty obligations within Uganda's legal system. The Constitution thus distinguishes between international legal obligations, which bind Uganda at the international level, and domestic legal effect, which requires legislative action.

The dualist approach reflected in Article 123(2) has significant implications for the implementation of EAC Treaty obligations. While Uganda is bound by the EAC Treaty at the international level and may face consequences under international law for non-compliance, the Treaty's provisions do not automatically override inconsistent domestic legislation unless Parliament has enacted specific legislation to incorporate those treaty provisions into domestic law.¹⁹ Uganda has enacted the East African Community Act to provide for matters related to its membership in the Community, but this Act does not comprehensively address all aspects of cross-border legal practice or automatically harmonise inconsistent provisions of the Advocates Act with EAC obligations.²⁰

This constitutional framework creates a potential tension between Uganda's international obligations under the EAC Treaty and the continued operation of inconsistent domestic legislation. While Uganda is internationally obligated to harmonise its laws to facilitate cross-border legal practice, the constitutional requirement for parliamentary action to domesticate treaty provisions means that such harmonisation depends on legislative reform.²¹ The failure to undertake such legislative reform does not negate Uganda's international obligations but does create a gap between Uganda's international commitments and its domestic legal reality, a gap that has been highlighted in judicial decisions and by commentators examining Uganda's compliance with EAC obligations.²²

3.3 The Advocates Act (Cap. 295): Statutory Analysis and Judicial Interpretation

The Advocates Act is the principal statute regulating the legal profession in Uganda and contains the provisions that create the most significant barriers to cross-border legal practice. This section analyses the Act's historical evolution, its restrictive admission requirements, the critical case law arising from those requirements – discussed exhaustively in connection with the specific provisions that gave rise to each case – and the discretionary avenues that exist under the Act.

¹⁸ Constitution of the Republic of Uganda, 1995, art 123(2).

¹⁹ JWK Mugambwa (n 12) 595-598.

²⁰ East African Community Act, Cap 187 (Uganda).

²¹ Vienna Convention on the Law of Treaties, adopted 23 May 1969, entered into force 27 January 1980, 1155 UNTS 331, art 27.

²² BK Twinomugisha 'Cross border legal practice in an integrated East African Community' (2011) 18 *The East African Lawyer* 3.

3.3.1 Historical Background and Evolution

The Advocates Act is the primary legislation governing the legal profession in Uganda.²³ The Act has its origins in colonial legislation and has undergone several amendments since Uganda's independence in 1962.²⁴ The current Act, as revised and consolidated in 2023, represents the culmination of decades of legislative development shaping the legal profession in Uganda.²⁵ Understanding the historical evolution of the Advocates Act is essential for comprehending the restrictive provisions that currently impede cross-border legal practice and for identifying areas where legislative reform is necessary to align with EAC obligations.

During the colonial period, legal practice in Uganda was governed by legislation that reflected the interests and priorities of the colonial administration.²⁶ The legal profession was structured to serve colonial administrative needs, with restrictions on admission designed to maintain professional standards as defined by colonial authorities and to limit entry into the profession.²⁷ These colonial-era restrictions were premised on assumptions about legal education, professional qualifications, and the nature of legal practice that reflected British legal traditions and were not necessarily adapted to the needs of an independent Uganda or to the objectives of regional integration in East Africa.

Following independence, Uganda inherited the colonial legal framework governing the legal profession, and subsequent amendments to the Advocates Act have largely maintained the restrictive character of admission requirements.²⁸ The post-independence amendments have focused on matters such as establishing the Law Council, defining professional misconduct, creating disciplinary procedures, and regulating the practice of advocates, but have not fundamentally reconceptualised admission requirements to facilitate regional integration or cross-border practice.²⁹ The restrictive provisions regarding admission of advocates trained in other EAC Partner States have remained substantially unchanged, reflecting a protectionist approach to the legal profession that prioritises domestic training and certification over regional harmonisation.

The 2002 amendment to the Advocates Act introduced some modifications to admission requirements, but these amendments did not address the core restrictions that impede cross-

²³ Advocates Act, Cap 295 (Uganda).

²⁴ As above, History Note.

²⁵ As above.

²⁶ JWK Mugambwa (n 10) 2-4.

²⁷ E Joireman 'Inherited legal systems and effective rule of law: Africa and the colonial legacy' (2001) 39 *Journal of Modern African Studies* 571 at 575.

²⁸ JWK Mugambwa (n 10) 5-7.

²⁹ As above.

border legal practice within the EAC framework.³⁰ The amendments focused primarily on strengthening disciplinary mechanisms, clarifying the powers of the Law Council, and addressing issues of professional conduct, but did not open pathways for easier admission of EAC nationals or lawyers trained in other Partner States.³¹ The 2023 revision and consolidation of Uganda's laws similarly did not introduce substantive changes to the restrictive admission provisions that conflict with EAC obligations, maintaining the legislative status quo that has been the subject of judicial challenges and scholarly criticism.³²

3.3.2 Section 13: Admission and Enrolment Requirements

Section 13 of the Advocates Act establishes the qualification requirements for admission to the Roll of Advocates and contains the provisions that create the most significant barriers to cross-border legal practice.³³ Section 13(8) sets out specific educational and qualification requirements that applicants must meet to be admitted and enrolled as advocates in Uganda.³⁴ These provisions have been the subject of constitutional challenges and have been identified as inconsistent with Uganda's obligations under the EAC Treaty and related instruments.

Section 13(8)(a) provides that a person shall not be qualified to be admitted and enrolled as an advocate unless that person holds a post-graduate diploma in legal practice from the Law Development Centre in Uganda.³⁵ This provision creates an absolute requirement for candidates to complete the post-graduate diploma at Uganda's Law Development Centre, effectively excluding graduates of comparable legal training institutions in other EAC Partner States.³⁶ The requirement operates as a mandatory domestic training prerequisite that does not recognise equivalent qualifications obtained elsewhere in the region, creating a significant barrier to entry for EAC nationals trained in their home countries.

The requirement under Section 13(8)(a) has several restrictive implications. First, it necessitates that all prospective advocates, regardless of their nationality or their prior legal training, must physically relocate to Uganda and complete a one-year post-graduate diploma programme at the Law Development Centre.³⁷ This requirement imposes financial costs, time commitments, and practical burdens that may be prohibitive for many qualified lawyers from other EAC Partner

³⁰ Advocates (Amendment) Act, 2002 (Uganda).

³¹ As above.

³² HK Sigci 'Implementation of the EAC Common Market Protocol in the East African Partner States: The Case of Legal Services' (2019) 13 *East African Journal of Law and Ethics* 95 at 97.

³³ Advocates Act, Cap 295 (Uganda), s 13.

³⁴ As above, s 13(8).

³⁵ As above, s 13(8)(a).

³⁶ HK Sigci (n 32) 95-100.

³⁷ As above.

States who wish to practice in Uganda. Second, the requirement does not provide for assessment of equivalence or mutual recognition of qualifications obtained from comparable institutions in other Partner States, such as the Kenya School of Law or the Institute of Legal Practice and Development in Rwanda.³⁸ This absence of recognition mechanisms contradicts the principles of mutual recognition that underpin regional integration in professional services.

Section 13(8)(b) contains additional qualification requirements that further restrict admission. Section 13(8)(b)(i) provides that a person must hold a Bachelor of Laws degree from a university in Uganda.³⁹ This provision creates a preference for domestic legal education and effectively discriminates against holders of law degrees from universities in other EAC Partner States. While Section 13(8)(b)(ii) provides some limited accommodation for persons who are citizens of Uganda and who hold law degrees from universities outside Uganda in countries whose legal system is based on common law, this provision still discriminates against non-Ugandan citizens and does not extend to citizens of other EAC Partner States who hold law degrees from their home countries.⁴⁰

Section 13(8)(b)(iii) provides that a person must be enrolled as an advocate in a country whose legal system is based on common law, or must possess such other qualifications as may be recognised by the Law Council as equivalent qualifications.⁴¹ This provision introduces some flexibility by allowing the Law Council to recognise equivalent qualifications, but in practice this discretion has been exercised restrictively.⁴² The emphasis on common law training creates an additional barrier for lawyers from civil law jurisdictions within the EAC, particularly Rwanda and Burundi, whose legal systems are based on civil law traditions.⁴³ This common law requirement reflects the historical influence of British colonial legal education but is increasingly anachronistic in the context of regional integration within a diverse legal landscape that includes both common law and civil law jurisdictions.

3.3.3 Critical Analysis of Restrictive Provisions and the *Katungi Tony v Attorney General* Case

The restrictive provisions in Section 13 of the Advocates Act create multiple barriers that are inconsistent with Uganda's obligations under the EAC Treaty and related instruments. These provisions can be critically analysed from several perspectives: their compatibility with EAC legal

³⁸ As above.

³⁹ Advocates Act, Cap 295 (Uganda), s 13(8)(b)(i).

⁴⁰ HK Sigei (n 32) 95-100.

⁴¹ Advocates Act, Cap 295 (Uganda), s 13(8)(b)(iii).

⁴² HK Sigei (n 32) 95-100.

⁴³ As above.

obligations, their discriminatory character, their protectionist rationale, and their practical implications for regional integration.

From the perspective of compatibility with EAC obligations, Section 13's requirements directly conflict with Article 126 of the EAC Treaty, which obligates Partner States to harmonise their legal training and certification systems.⁴⁴ The requirement that all prospective advocates must complete the Law Development Centre diploma in Uganda, without recognition of equivalent training from other Partner States, represents a failure to harmonise admission standards and contradicts the Treaty's objective of facilitating cross-border legal practice.⁴⁵ Similarly, the provisions conflict with Article 76 of the Treaty and the Common Market Protocol's commitments to free movement of services and non-discrimination based on nationality.⁴⁶

The discriminatory character of Section 13's provisions is evident in their differential treatment of persons based on where they obtained their legal education and, by implication, their nationality. The common law requirement effectively creates a two-tier system in which lawyers from common law jurisdictions have somewhat more accessible admission pathways than lawyers from civil law jurisdictions, despite the fact that both are EAC Partner States with equivalent regional integration obligations.⁴⁷ This differential treatment is difficult to reconcile with the non-discrimination principles enshrined in Article 2(4) of the Common Market Protocol, which requires Partner States to treat nationals of other Partner States no less favourably than their own nationals.⁴⁸

The protectionist rationale underlying Section 13's restrictions must be acknowledged, even as it is critically evaluated. There are legitimate concerns about maintaining quality of legal services, ensuring advocates are adequately trained in Ugandan law, and protecting the interests of consumers who rely on lawyers for important matters.⁴⁹ However, categorical exclusion of EAC nationals, without any mechanism for assessing individual competence or recognising equivalent training, goes beyond what is necessary or proportionate to achieve these legitimate objectives.⁵⁰ Less restrictive alternatives – such as aptitude tests, bridging courses, or supervised practice

⁴⁴ Treaty for the Establishment of the East African Community, 30 November 1999, art 126.

⁴⁵ HK Sigci (n 32) 95-100.

⁴⁶ Treaty for the Establishment of the East African Community, 30 November 1999, arts 76, 79; Protocol on the Establishment of the East African Common Market, 2009.

⁴⁷ J Gathii 'The architecture of Africa's international investment law' (2010) *SSRN Research Paper Series* at 580.

⁴⁸ Protocol on the Establishment of the East African Common Market, 2009, art 2(4).

⁴⁹ HK Sigci (n 32) 95-100.

⁵⁰ As above.

requirements – could address genuine quality concerns while complying with Uganda's regional integration obligations.⁵¹

The case of *Katungi Tony v Attorney General* represents a landmark challenge to Uganda's restrictive admission requirements for advocates and their compatibility with EAC Treaty obligations.⁵² Filed as Miscellaneous Cause 204 of 2017 in the High Court of Uganda, this case brought into sharp judicial focus the tensions between Uganda's domestic legal framework and its international commitments under the East African Community Treaty.⁵³

The facts and background of the case involved a petitioner who sought to challenge the constitutionality and legality of provisions in the Advocates Act that restricted admission to practice based on educational qualifications obtained exclusively from Ugandan institutions.⁵⁴ Katungi Tony argued that these restrictions were inconsistent with Uganda's obligations under the EAC Treaty, particularly Article 126, which requires Partner States to harmonise their legal training and certification systems and to facilitate cross-border legal practice.⁵⁵ The petitioner contended that the restrictive provisions violated constitutional guarantees of freedom to practice any lawful profession and discriminated against individuals based on where they obtained their legal education.⁵⁶

The legal issues raised in the case were multifaceted and touched on fundamental questions about the relationship between domestic law and international treaty obligations, the scope of constitutional rights, and the extent to which Uganda's regional integration commitments constrain legislative discretion in regulating professional qualifications.⁵⁷ The petitioner argued that Section 13(8) of the Advocates Act, particularly the requirement for a post-graduate diploma from Uganda's Law Development Centre, created an unreasonable restriction on the right to practice a lawful profession guaranteed under Article 29(2)(d) of the Constitution.⁵⁸ The petitioner further argued that this restriction was inconsistent with Uganda's constitutional

⁵¹ As above.

⁵² *Katungi Tony v Attorney General*, Miscellaneous Cause No. 204 of 2017 (High Court of Uganda); see also W Bwambale 'The Operation of Mutual Recognition Agreements vis-à-vis an East African Legislation on Cross Border Legal Practice: The Ugandan Perspective' LLM thesis, Makerere University School of Law, 2019 100 (on file with the author).

⁵³ As above.

⁵⁴ As above.

⁵⁵ Treaty for the Establishment of the East African Community, 30 November 1999, art 126; *Katungi Tony v Attorney General* (n 52).

⁵⁶ *Katungi Tony v Attorney General* (n 52).

⁵⁷ As above.

⁵⁸ Constitution of the Republic of Uganda, 1995, art 29(2)(d); *Katungi Tony v Attorney General* (n 52).

commitment to regional integration under National Objective XXVIII and with the country's binding obligations under the EAC Treaty.⁵⁹

The Court's holding on Article 126 of the EAC Treaty was significant and represented judicial recognition of the tension between Uganda's domestic legal framework and its international obligations. The High Court acknowledged that Article 126 creates clear obligations for Partner States to harmonise their legal training and certification systems, and that these obligations extend beyond mere aspirational commitments to require concrete action by the Ugandan government and legislature.⁶⁰ The Court noted that Uganda's ratification of the EAC Treaty, approved by Parliament in accordance with Article 123 of the Constitution, created binding international obligations that should inform the interpretation and application of domestic legislation.⁶¹

The Court's analysis of the harmonisation obligation under Article 126 emphasised that the provision requires Partner States to take active measures to establish common syllabi, common standards for qualification, and mutual recognition of legal training across the region.⁶² The Court observed that the restrictive provisions of the Advocates Act appeared inconsistent with this harmonisation obligation, as they made no provision for recognition of legal training from other EAC Partner States and created absolute barriers to admission for lawyers trained elsewhere in the region.⁶³ This judicial recognition of the incompatibility between Uganda's domestic law and its EAC Treaty obligations represented an important step toward greater awareness of the compliance deficit identified in this research.⁶⁴

The significance and implications of the judgment extend beyond the immediate parties to the case and have broader relevance for debates about cross-border legal practice and regional integration in East Africa. The Court's willingness to engage substantively with EAC Treaty obligations and to recognise their relevance to interpreting domestic legislation signals that Ugandan courts may be increasingly receptive to arguments based on regional integration commitments.⁶⁵ This judicial approach creates potential for future challenges to restrictive

⁵⁹ *Katungi Tony v Attorney General* (n 52).

⁶⁰ As above.

⁶¹ As above; Constitution of the Republic of Uganda, 1995, art 123.

⁶² *Katungi Tony v Attorney General* (n 52).

⁶³ As above.

⁶⁴ BK Twinomugisha (n 22) 3.

⁶⁵ *Katungi Tony v Attorney General* (n 52).

provisions and for using constitutional litigation as a mechanism to pressure for legislative reform.⁶⁶

However, a critical assessment of the judgment must also acknowledge its limitations. While the Court recognised the tension between Uganda's domestic law and its EAC obligations, the remedies granted were limited in their practical impact.⁶⁷ The Court did not strike down the restrictive provisions of the Advocates Act as unconstitutional, nor did it order immediate legislative reform to bring Uganda's law into compliance with EAC obligations.⁶⁸ Instead, the judgment served primarily a declaratory function, highlighting the legal issues without compelling comprehensive reform of the admission system.⁶⁹ This limited remedial approach reflects broader challenges in using constitutional litigation to drive regional integration, as courts may be hesitant to invalidate legislation or to order executive action on matters that involve complex policy choices and regional cooperation.⁷⁰

3.3.4 The *Andrew Bataamwe v Attorney General* Case: Civil Law Barriers and EAC Compliance

The case of *Andrew Bataamwe v Attorney General* presents a particularly compelling illustration of the barriers faced by civil law-trained lawyers from other EAC Partner States seeking admission to practice in Uganda.⁷¹ Filed as Miscellaneous Cause 280 of 2019 and decided on 13 May 2020, this case highlights the intersection of legal system differences, nationality-based discrimination, and regional integration obligations within the context of professional admission requirements.⁷²

The facts of the case involved Andrew Bataamwe, a Rwandan national who had obtained his law degree and completed professional legal training in Rwanda.⁷³ Bataamwe sought admission to the Roll of Advocates in Uganda to enable him to practice law in Uganda and to provide cross-border legal services consistent with the EAC Common Market framework.⁷⁴ However, his application for admission was rejected by the Law Council on grounds that his Rwandan legal training, which was based on a civil law system, was not equivalent to the common law training required under Section 13(8) of the Advocates Act.⁷⁵ Uganda was subsequently brought before

⁶⁶ HK Sigei (n 32) 95-100.

⁶⁷ *Katungi Tony v Attorney General* (n 52).

⁶⁸ As above.

⁶⁹ As above.

⁷⁰ BK Twinomugisha (n 22) 3.

⁷¹ *Andrew Bataamwe v Attorney General*, Miscellaneous Cause No. 280 of 2019 (High Court of Uganda), decided 13 May 2020.

⁷² As above.

⁷³ As above.

⁷⁴ As above; Protocol on the Establishment of the East African Common Market, 2009, Annex V.

⁷⁵ *Andrew Bataamwe v Attorney General* (n 71); Advocates Act, Cap 295 (Uganda), s 13(8).

the East African Court of Justice in connection with this refusal, demonstrating the regional dimensions of what might otherwise appear to be a purely domestic regulatory decision.⁷⁶

The legal issues in the *Bataamwe* case centred on the question of whether the distinction between common law and civil law training constitutes a legitimate basis for excluding otherwise qualified lawyers from admission to practice in Uganda.⁷⁷ The petitioner argued that the emphasis on common law training in Uganda's admission requirements discriminated against lawyers from civil law jurisdictions within the EAC, particularly Rwanda and Burundi, and was inconsistent with the non-discrimination principle under Article 2(4) of the Common Market Protocol.⁷⁸ The case also raised questions about the extent to which differences in legal systems and training methodologies can justify restrictions on cross-border professional practice within a regional integration framework that encompasses both common law and civil law jurisdictions.⁷⁹

The High Court's decision in the *Bataamwe* case ultimately upheld the Law Council's rejection of the application, finding that the requirement for common law training was a reasonable qualification for admission to practice in Uganda's legal system.⁸⁰ The Court's rationale for rejection emphasised the practical difficulties that a civil law-trained lawyer might face in navigating Uganda's common law legal system, including differences in legal reasoning, precedent systems, procedural rules, and substantive legal doctrines.⁸¹ The Court expressed concern that admitting civil law-trained lawyers without additional training or qualification requirements might compromise the quality of legal services and could disadvantage clients who rely on advocates to have thorough knowledge of Uganda's legal system.⁸²

However, the decision also acknowledged the human rights dimensions of the restrictive admission requirements and the tension between Uganda's domestic regulatory framework and its regional integration commitments. The Court noted that the right to work and practice a lawful profession, guaranteed under Article 29(2)(d) of the Constitution, is not an absolute right and may be subject to reasonable limitations.⁸³ The Court further observed that Uganda's obligations under the EAC Treaty, while significant, must be balanced against legitimate concerns about maintaining professional standards and ensuring effective administration of

⁷⁶ HK Sigei (n 32) 95-100.

⁷⁷ *Andrew Bataamwe v Attorney General* (n 71).

⁷⁸ As above; Protocol on the Establishment of the East African Common Market, 2009, art 2(4).

⁷⁹ *Andrew Bataamwe v Attorney General* (n 71).

⁸⁰ As above.

⁸¹ As above.

⁸² As above.

⁸³ Constitution of the Republic of Uganda, 1995, art 29(2)(d); *Andrew Bataamwe v Attorney General* (n 71).

justice.⁸⁴ This balancing approach, while understandable from a judicial perspective, effectively prioritises domestic regulatory concerns over regional integration objectives and places the burden of adaptation entirely on individual lawyers rather than requiring the Ugandan legal system to make accommodations for regional diversity.⁸⁵

A critical analysis of the *Bataamve* decision reveals several problematic aspects that warrant careful examination. First, the decision assumes that civil law training is inherently incompatible with practice in a common law system, without adequately considering the extent to which legal systems have converged and the capacity of professional lawyers to adapt to different legal frameworks.⁸⁶ Many lawyers around the world successfully practice across legal systems and traditions, and the increasing globalisation of legal practice suggests that rigid distinctions between common law and civil law training may be less relevant than the Court assumed.⁸⁷ Moreover, the EAC Treaty's harmonisation obligations apply equally to all Partner States regardless of their legal traditions, suggesting that the Treaty contemplates cross-border practice even across different legal systems.⁸⁸

Second, the decision does not adequately address alternative mechanisms that could facilitate cross-border practice while addressing legitimate concerns about professional competence. Rather than absolutely excluding civil law-trained lawyers, Uganda could establish bridging programmes, supplementary examinations, or practical training requirements that would enable such lawyers to demonstrate competence in Uganda's legal system without requiring them to complete the full Law Development Centre programme.⁸⁹ The Court's failure to consider or recommend such alternatives represents a missed opportunity to reconcile Uganda's domestic regulatory interests with its regional integration commitments.⁹⁰

Third, the decision's emphasis on protecting consumers of legal services and maintaining professional standards, while legitimate, may overstate the risks posed by admitting qualified lawyers from other EAC Partner States and may underestimate the benefits of increased competition and diversity in the legal profession.⁹¹ Clients seeking legal services on matters involving cross-border transactions, regional trade, or international law might actually benefit from access to lawyers trained in different legal traditions who bring diverse perspectives and

⁸⁴ *Andrew Bataamve v Attorney General* (n 71).

⁸⁵ HK Sigci (n 32) 95-100.

⁸⁶ *Andrew Bataamve v Attorney General* (n 71).

⁸⁷ JWK Mugambwa (n 10) 12-15.

⁸⁸ Treaty for the Establishment of the East African Community, 30 November 1999, art 126.

⁸⁹ *Andrew Bataamve v Attorney General* (n 71); HK Sigci (n 32) 95-100.

⁹⁰ HK Sigci (n 32) 95-100.

⁹¹ As above.

expertise.⁹² The protectionist approach reflected in the *Bataamwe* decision may ultimately disadvantage Ugandan clients by limiting their access to a broader range of legal expertise and potentially increasing the cost of legal services through reduced competition.⁹³

3.3.5 The Male Mabirizi Application: Discretionary Powers of the Chief Justice and the Scope of Section 13

A further illustration of the complexities arising from Section 13 of the Advocates Act, and one that raises important questions about the discretionary powers available within the existing statutory framework, is provided by the application of Male Hassan Mabirizi Kassim Kiwanuka for admission and enrolment as an advocate of the High Court of Uganda. In a formal letter dated 30 May 2025, addressed to the Chairperson of the Law Council, Mabirizi applied for admission pursuant to Sections 13(1), 13(8), and 13(9) of the Advocates Act.⁹⁴ His application presents a novel and instructive challenge to the orthodox interpretation of the admission regime.

Mabirizi holds a law degree from Makerere University, which on its face satisfies the academic qualification requirement under Section 13(8)(a). However, rather than having followed the conventional route through the Law Development Centre, he has engaged in sustained self-directed public interest litigation since 2013 across all levels of Uganda's court system – the High Court, Court of Appeal, Constitutional Court, Supreme Court, and the East African Court of Justice.⁹⁵ He argues that this decade-long practical engagement with the courts, in constitutional and public interest matters of significant national importance, constitutes practice as a legal practitioner within the meaning of the Act, thereby qualifying him under Section 13(9) without the necessity of completing the post-graduate diploma course.⁹⁶

Among the landmark matters cited by Mabirizi in support of his application are Constitutional Appeal No. 02 of 2018, in which he appeared before the Supreme Court challenging the Constitution (Amendment) Act 2018 relating to the removal of the presidential age limit, East African Court of Justice Reference No. 6 of 2019, challenging the same constitutional amendments at the regional level, and Reference No. 8 of 2020, in which he contested the

⁹² As above.

⁹³ As above.

⁹⁴ Male Hassan Mabirizi Kassim Kiwanuka, Application for Admission and Enrolment as an Advocate (letter addressed to the Chairperson, Law Council of Uganda, 30 May 2025).

⁹⁵ As above.

⁹⁶ As above; Advocates Act, Cap 295 (Uganda), s 13(9).

legality of Uganda's Covid-19 lockdown measures.⁹⁷ These proceedings demonstrate the sophistication and constitutional significance of his legal engagements, even in the absence of formal admission to the Roll.

The application raises a fundamental interpretive question: what constitutes 'practice as a legal practitioner' under Section 13(9) of the Advocates Act? The Act defines 'legal practice' in broad terms to include 'carrying out work of a nature normally performed by an advocate; such as receiving instructions to sue or defending a client in contentious matters, carrying out any form of representation in non-contentious matters... writing legal opinions, legal correspondence, witnessing, certifying and notarising miscellaneous legal documents.'⁹⁸ Mabirizi's sustained engagement in constitutional litigation, his appearances before superior courts, and his formulation of complex legal arguments may plausibly fall within this definition, at least in respect of the representation and contentious business aspects.

The Law Council had not, at the time of this research, issued a formal response to Mabirizi's application.⁹⁹ If the Council declines admission, the matter raises the further question of the discretionary power available to the Chief Justice. Section 17 of the Advocates Act, dealing with the appeal against refusal of a practising certificate, provides in its appeal mechanism that 'the Chief Justice shall make such order on the appeal as he or she thinks just.'¹⁰⁰ This broad remedial jurisdiction of the Chief Justice on appeal from a Law Council decision represents a significant discretionary power that is not constrained by the rigid qualification criteria of Section 13(8). It is submitted that the Chief Justice, in the exercise of this discretion, could in appropriate circumstances order admission of an applicant who does not strictly satisfy the formal requirements of Section 13(8) but who has demonstrably acquired equivalent competence through sustained legal practice.

The significance of the Mabirizi application extends well beyond the individual case. It exposes the inflexibility of the current admission regime and demonstrates that the Law Council's gatekeeping function, as currently exercised, may operate to exclude from formal admission persons who have in practice been performing the functions of advocates at the highest levels of the legal system. More fundamentally for the purposes of this research, it illustrates that

⁹⁷ Mabirizi, Application (n 94); *Male Mabirizi Kiwanuka v Attorney General of Uganda*, Constitutional Appeal No. 02 of 2018 (Supreme Court of Uganda); *Male Mabirizi Kiwanuka v Attorney General of Uganda*, East African Court of Justice Reference No. 6 of 2019; *Male Mabirizi Kiwanuka v Attorney General of Uganda*, East African Court of Justice Reference No. 8 of 2020.

⁹⁸ Advocates Act, Cap 295 (Uganda), s 1 (definition of "legal practice").

⁹⁹ Mabirizi, Application (n 94); see also The Independent, 'Rule of law champion Mabirizi seeks enrollment as advocate after 10 years in the wilderness' *The Independent* (8 June 2025).

¹⁰⁰ Advocates Act, Cap 295 (Uganda), s 17.

discretionary mechanisms already exist within the Advocates Act that could, if exercised with creativity and a purposive approach, partially ameliorate the rigidities of the formal admission requirements – not only for idiosyncratic domestic cases but, by analogical extension, potentially for EAC nationals with demonstrably equivalent professional experience. The consistent failure to exercise such discretion in favour of facilitation rather than restriction speaks to the broader institutional culture of protectionism that is examined in Chapter Four.

3.3.6 Other Relevant Cases and Emerging Jurisprudence

Beyond the *Katungi* and *Bataamwe* cases, there have been additional challenges to the Advocates Act and related litigation that further illuminate the legal issues surrounding cross-border legal practice in Uganda. While these cases have not resulted in comprehensive reform of Uganda's admission requirements, they have contributed to an evolving jurisprudence that increasingly recognises the tensions between domestic legal frameworks and regional integration obligations.¹⁰¹

Additional constitutional challenges have been filed by various petitioners seeking to challenge different aspects of Uganda's restrictive admission requirements. Some of these cases have focused on the monopoly position of the Law Development Centre and whether the requirement to complete training at a single institution violates constitutional principles of fair competition and freedom of choice.¹⁰² Other cases have challenged the discretionary powers of the Law Council under Section 3 of the Advocates Act, arguing that unfettered discretion without clear criteria violates principles of procedural fairness and equality before the law.¹⁰³

The possibility of referrals to the East African Court of Justice (EACJ) represents another avenue for judicial engagement with cross-border legal practice issues. Article 27 of the EAC Treaty grants the EACJ jurisdiction to interpret and apply the Treaty, and Article 30 provides mechanisms for referral of cases by Partner States, the Secretary General, or by national courts.¹⁰⁴ To date, there have been limited referrals from Ugandan courts to the EACJ on issues related to cross-border legal practice, though the *Samuel Gatere & 2 Others v Attorney General of Kenya* case before the EACJ demonstrates that the regional court is willing to address such issues when properly presented.¹⁰⁵

¹⁰¹ HK Sigei (n 32) 95-100.

¹⁰² As above.

¹⁰³ As above; Advocates Act, Cap 295 (Uganda), s 3.

¹⁰⁴ Treaty for the Establishment of the East African Community, 30 November 1999, arts 27, 30.

¹⁰⁵ *Samuel Gatere & 2 Others v Attorney General of Kenya*, East African Court of Justice Reference No. 5 of 2014.

The *Gatare* case, while decided against Kenya rather than Uganda, has significant precedential value for understanding how the EACJ interprets EAC Treaty obligations regarding cross-border professional practice. In that case, the EACJ considered whether Kenya's restrictive admission requirements for Rwandan-trained lawyers violated the Treaty's commitments to free movement of services and non-discrimination.¹⁰⁶ The Court's analysis emphasised that Partner States have concrete obligations to facilitate cross-border practice and that domestic admission requirements must be compatible with these regional commitments.¹⁰⁷ This jurisprudence from the EACJ provides a strong foundation for potential future challenges to Uganda's restrictive admission requirements through regional judicial mechanisms.¹⁰⁸

The emerging jurisprudence from these various cases suggests a gradual evolution in judicial thinking about cross-border legal practice and regional integration. While courts have been cautious about invalidating established legislative frameworks or ordering comprehensive reform, there is increasing judicial recognition of the legitimacy of regional integration objectives and the need to interpret domestic law consistently with Uganda's international commitments where possible.¹⁰⁹ This evolving jurisprudence creates opportunities for future advocacy and litigation aimed at bringing Uganda's legal framework into closer alignment with EAC obligations.¹¹⁰

3.4 The Law Council: Regulatory Role and Institutional Barriers

The Law Council of Uganda occupies a central position in the regulation of the legal profession and plays a pivotal role in either facilitating or obstructing cross-border legal practice. This section examines the Council's statutory mandate, its role in admission and certification, and the patterns of practice that have created institutional barriers to EAC compliance.

3.4.1 Statutory Mandate and Powers

The Law Council derives its authority from Part II of the Advocates Act and is established as the principal regulatory body for the legal profession in Uganda.¹¹¹ Section 2 of the Act establishes the Council's composition, which includes a judge appointed by the Attorney General, the Solicitor General, the President of the Uganda Law Society, the Director of the Law Development Centre, the Dean of the Faculty of Law of Makerere University, and other

¹⁰⁶ As above.

¹⁰⁷ As above.

¹⁰⁸ HK Sigei (n 32) 95-100.

¹⁰⁹ As above.

¹¹⁰ As above.

¹¹¹ Advocates Act, Cap 295 (Uganda), Part II.

representatives.¹¹² This composition reflects the Council's role as a body bringing together the principal stakeholders in Uganda's legal profession, though the dominance of domestic practitioners and institutional representatives creates incentive structures that may not always favour regional integration objectives.¹¹³

The Council's mandate extends to matters of professional qualification and continuing competence. Section 3(2) empowers the Council to prescribe the conditions subject to which a person may be admitted and enrolled as an advocate, including conditions relating to practical training and experience.¹¹⁴ This power gives the Council significant influence over the practical implementation of admission requirements set out in Section 13, potentially allowing the Council to impose additional requirements beyond those specified in the statute or to interpret the statutory requirements in ways that either facilitate or impede cross-border practice.¹¹⁵

The Law Council also has authority over the recognition of foreign qualifications and the assessment of equivalence. Section 13(8)(b)(iii) of the Advocates Act refers to qualifications recognised by the Law Council as equivalent qualifications, implicitly granting the Council discretion to determine what qualifications from other jurisdictions should be recognised as equivalent to Ugandan qualifications.¹¹⁶ This discretionary power is crucial for facilitating cross-border legal practice, as the Council could, in principle, establish mechanisms for recognising qualifications from other EAC Partner States and for assessing the equivalence of training received at institutions such as the Kenya School of Law or Rwanda's Institute of Legal Practice and Development.¹¹⁷

3.4.2 Role in Admission and Certification

The Law Council plays a central role in the admission and certification process for advocates in Uganda. Section 12 of the Advocates Act establishes the Roll of Advocates, which is maintained by the Registrar of the High Court but is subject to the Council's oversight and regulatory authority.¹¹⁸ Before a person can be admitted and enrolled as an advocate, they must satisfy the qualification requirements set out in Section 13, and the Council is responsible for verifying that these requirements have been met.¹¹⁹

¹¹² As above, s 2.

¹¹³ HK Sigei (n 32) 95-100.

¹¹⁴ Advocates Act, Cap 295 (Uganda), s 3(2).

¹¹⁵ HK Sigei (n 32) 95-100.

¹¹⁶ Advocates Act, Cap 295 (Uganda), s 13(8)(b)(iii).

¹¹⁷ HK Sigei (n 32) 95-100.

¹¹⁸ Advocates Act, Cap 295 (Uganda), s 12.

¹¹⁹ As above, s 13.

The admission process involves several stages in which the Law Council exercises significant control. First, applicants must submit their credentials and documentation to the Law Council for assessment.¹²⁰ The Council examines the applicant's educational qualifications, including law degree certificates, transcripts, and the post-graduate diploma from the Law Development Centre.¹²¹ The Council also verifies that applicants meet other requirements such as good character, which is assessed through references and background checks.¹²² This gatekeeping function gives the Council substantial power to determine who enters the legal profession in Uganda.

Second, the Law Council has authority to prescribe additional requirements or conditions for admission beyond those specified in the statute. Through regulations made under Section 3, the Council has established detailed procedures for admission, including requirements for pupillage or articles of clerkship, practical training components, and other conditions that applicants must fulfil before being admitted to practice.¹²³ These additional requirements, while potentially justifiable on grounds of ensuring practical competence, create further barriers to entry that may disproportionately affect candidates from other EAC Partner States who may have completed different forms of practical training in their home jurisdictions.¹²⁴

Third, the Law Council is responsible for issuing practising certificates to advocates, a requirement for lawful practice in Uganda. Section 16 of the Advocates Act provides that no advocate shall practice as an advocate unless that advocate holds a valid practising certificate issued by the Law Council.¹²⁵ The practising certificate regime gives the Council ongoing regulatory authority over advocates even after admission, and the Council may refuse to issue or may revoke practising certificates on various grounds, including non-compliance with continuing legal education requirements or professional conduct standards.¹²⁶ For cross-border practitioners, the practising certificate requirement raises questions about whether certificates issued by regulatory bodies in other Partner States would be recognised in Uganda and whether lawyers would need to obtain multiple certificates to practice in different jurisdictions.¹²⁷

¹²⁰ HK Sigeti (n 32) 95-100.

¹²¹ As above.

¹²² As above.

¹²³ Advocates Act, Cap 295 (Uganda), s 3.

¹²⁴ HK Sigeti (n 32) 95-100.

¹²⁵ Advocates Act, Cap 295 (Uganda), s 16.

¹²⁶ As above, s 17.

¹²⁷ HK Sigeti (n 32) 95-100.

3.4.3 Practice and Patterns

The Law Council's practice and patterns in handling applications from EAC nationals and lawyers trained in other Partner States reveal a restrictive and protectionist approach that has hindered cross-border legal practice. Documented evidence from various sources, including judicial decisions, academic studies, and reports from affected individuals, indicates that the Council has consistently applied the restrictive provisions of Section 13 in ways that effectively exclude EAC nationals who have not completed training at Uganda's Law Development Centre.¹²⁸

One significant pattern in the Council's practice is its treatment of applications from lawyers trained in Kenya, Tanzania, Rwanda, and other EAC Partner States. Despite the similarity of legal education systems across the region, particularly among common law jurisdictions like Kenya and Uganda, the Council has refused to recognise post-graduate diplomas or bar admission certificates from institutions in other Partner States as equivalent to the Law Development Centre diploma required under Section 13(8)(a).¹²⁹ This refusal to recognise equivalent qualifications has been applied even to highly qualified lawyers with extensive experience in their home jurisdictions, effectively requiring all foreign-trained lawyers to restart their professional training by enrolling in the Law Development Centre's one-year diploma programme.¹³⁰

Statistical analysis of the Law Council's admission decisions, where such data is available, reveals extremely low numbers of EAC nationals being admitted to practice in Uganda through recognition of foreign qualifications.¹³¹ The vast majority of non-Ugandan lawyers who have been admitted to practice in Uganda have done so by completing the full Law Development Centre programme, effectively becoming indistinguishable from domestic candidates in terms of their training pathway.¹³² This pattern suggests that the discretionary power to recognise equivalent qualifications, provided for in Section 13(8)(b)(iii), has been exercised rarely if at all, and that the Council has adopted a policy of requiring full compliance with domestic training requirements rather than seeking to facilitate cross-border practice through mutual recognition arrangements.¹³³

¹²⁸ As above.

¹²⁹ As above.

¹³⁰ As above.

¹³¹ JWK Mugambwa (n 10) 12-15.

¹³² HK Sigeti (n 32) 95-100.

¹³³ As above.

3.4.4 Institutional Barriers to Cross-Border Practice

Beyond the specific decisions on individual applications, the Law Council's institutional structure and policy positions create systemic barriers to cross-border legal practice. These institutional barriers include administrative bottlenecks, absence of clear policy guidance on recognition of EAC qualifications, limited stakeholder consultation on regional integration issues, and absence of cooperation mechanisms with regulatory bodies in other Partner States.¹³⁴

Administrative bottlenecks in the Council's operations have created delays and uncertainty for applicants seeking admission to the Ugandan bar. The Council's procedures for assessing applications, particularly those involving foreign qualifications, lack transparency and clear timelines.¹³⁵ Applicants often face lengthy waiting periods without clear information about the status of their applications or the criteria being applied in evaluating their qualifications.¹³⁶ These administrative inefficiencies disproportionately affect cross-border practitioners and create additional discouragement for lawyers from other Partner States who might otherwise seek admission in Uganda.

The absence of clear policy guidance on recognition of EAC qualifications represents a significant institutional gap. Unlike regulatory bodies in some other jurisdictions that have published clear policies or guidelines on recognition of foreign qualifications, including specific provisions for qualifications from regional integration partner countries, Uganda's Law Council has not articulated a clear policy framework for handling applications from EAC nationals.¹³⁷ This policy vacuum means that decisions are made on an ad hoc basis without consistent criteria, creating legal uncertainty and making it difficult for prospective applicants to assess their eligibility or plan their career paths.¹³⁸

The absence of cooperation mechanisms with regulatory bodies in other Partner States represents another significant institutional barrier. Effective facilitation of cross-border legal practice would benefit from formal cooperation arrangements between the Law Council and equivalent bodies in Kenya, Tanzania, Rwanda, and other Partner States.¹³⁹ Such cooperation could include information sharing about regulatory standards, coordination of disciplinary actions, mutual recognition agreements, and joint development of common professional

¹³⁴ As above.

¹³⁵ As above.

¹³⁶ As above.

¹³⁷ As above.

¹³⁸ As above.

¹³⁹ As above.

standards.¹⁴⁰ However, the Law Council has not established such cooperation mechanisms, and there is limited evidence of regular engagement with counterpart bodies in other countries on cross-border practice issues.¹⁴¹ This absence of institutional cooperation reflects and reinforces the fragmented nature of legal profession regulation across the EAC region.

3.5 The Law Development Centre Act

The Law Development Centre occupies a monopoly position in Uganda's legal education system as the sole provider of the post-graduate diploma required for admission to the bar. This section analyses the Centre's role, its relationship to admission requirements, and the challenges surrounding recognition of training from other EAC Partner States.

3.5.1 Role of LDC in Legal Education

The Law Development Centre (LDC) occupies a unique and pivotal position in Uganda's legal education system, functioning as the sole institution authorised to provide the post-graduate diploma in legal practice required for admission to the bar.¹⁴² Established under the Law Development Centre Act, the Centre's primary function is to provide practical legal training to law graduates and to prepare them for entry into the legal profession.¹⁴³ The Centre's monopoly position in providing this essential qualification gives it enormous influence over access to the legal profession in Uganda and makes it a key institutional actor in debates about cross-border legal practice and regional integration.

The Law Development Centre Act, Cap 251, establishes the Centre as a body corporate with authority to provide post-graduate training in law and to award diplomas to successful candidates.¹⁴⁴ Section 5 of the Act sets out the functions of the Centre, which include providing courses of instruction and training in law for persons who wish to become advocates or to pursue other legal careers, conducting examinations and awarding diplomas to successful candidates, and undertaking research in law and legal education.¹⁴⁵ These functions position the LDC as both an educational institution and a professional certification body, combining roles

¹⁴⁰ As above.

¹⁴¹ As above.

¹⁴² Law Development Centre Act, Cap 251 (Uganda).

¹⁴³ As above.

¹⁴⁴ As above.

¹⁴⁵ As above, s 5.

that in some other jurisdictions are separated between universities and professional regulatory bodies.¹⁴⁶

The post-graduate diploma programme at the Law Development Centre is a one-year intensive course that follows completion of a law degree and focuses on practical legal skills, procedure, and professional ethics.¹⁴⁷ The curriculum includes courses in civil litigation, criminal litigation, conveyancing, commercial law practice, legal drafting, and professional conduct, among other subjects.¹⁴⁸ Students are required to complete coursework, practical exercises, and examinations in all required subjects, and must also complete a period of practical attachment to a law firm or other legal practice setting.¹⁴⁹ Successful completion of the programme and passing of all required examinations results in the award of the post-graduate diploma, which is the essential prerequisite for admission to the Roll of Advocates under Section 13(8)(a) of the Advocates Act.¹⁵⁰

3.5.2 Recognition of Foreign Diplomas

The Law Development Centre and the Law Council have not established effective mechanisms for recognising post-graduate diplomas or bar admission certificates from comparable institutions in other EAC Partner States. This absence of recognition mechanisms is a fundamental barrier to cross-border legal practice and represents a failure to implement the mutual recognition commitments under the EAC Treaty framework.¹⁵¹

Comparable institutions exist in other EAC Partner States that provide post-graduate legal training similar to that offered by Uganda's Law Development Centre. In Kenya, the Kenya School of Law provides post-graduate training through its Advocates Training Programme, which candidates must complete before being admitted to the bar.¹⁵² The Kenya School of Law's programme is broadly similar to the LDC programme in structure, content, and duration, focusing on practical legal skills and professional ethics.¹⁵³ Tanzania has the Law School of Tanzania, which provides comparable post-graduate legal training, while Rwanda has the

¹⁴⁶ HK Sigei (n 32) 95-100.

¹⁴⁷ Law Development Centre Act, Cap 251 (Uganda).

¹⁴⁸ As above.

¹⁴⁹ As above.

¹⁵⁰ As above; Advocates Act, Cap 295 (Uganda), s 13(8)(a).

¹⁵¹ HK Sigei (n 32) 95-100.

¹⁵² Council of Legal Education Act (Kenya); Kenya School of Law Act (Kenya).

¹⁵³ HK Sigei (n 32) 95-100.

Institute of Legal Practice and Development, which offers professional training for lawyers in the Rwandan legal system.¹⁵⁴

Despite these institutional similarities and the shared objectives of preparing law graduates for legal practice, Uganda's legal education system does not recognise diplomas from these institutions as equivalent to the LDC diploma for purposes of admission to the Ugandan bar.¹⁵⁵ The criteria for recognition of foreign diplomas, to the extent they exist, have not been clearly articulated or published, creating uncertainty for prospective applicants and contributing to the perception that the system is closed to foreign-trained lawyers.¹⁵⁶

The treatment of EAC institutions is particularly problematic given the explicit commitments under Article 126 of the EAC Treaty to harmonise legal training and establish common standards.¹⁵⁷ The Treaty contemplates that Partner States would develop comparable training programmes and establish mechanisms for mutual recognition of qualifications, yet Uganda's approach to recognition of foreign diplomas does not distinguish between institutions in EAC Partner States and those in other countries.¹⁵⁸ A lawyer trained at the Kenya School of Law faces essentially the same barriers to admission in Uganda as a lawyer trained in the United Kingdom, Australia, or any other non-EAC jurisdiction, despite the fact that Kenya and Uganda are both committed to facilitating cross-border legal practice as part of the EAC integration process.¹⁵⁹

3.5.3 Harmonisation Challenges

The challenges to harmonising legal education across the EAC region are significant and multifaceted, involving curriculum differences, variations in legal systems, quality assurance concerns, and institutional resistance to change. These challenges help explain, though they do not justify, the slow progress toward implementing mutual recognition of legal qualifications in the region.¹⁶⁰

Curriculum differences across EAC Partner States reflect both the diversity of legal traditions within the region and the different emphases placed on various aspects of legal training by different institutions. While common law jurisdictions like Uganda, Kenya, and Tanzania share broadly similar legal education systems, there are variations in specific content, teaching

¹⁵⁴ Law School of Tanzania Act (Tanzania); Institute of Legal Practice and Development Act (Rwanda).

¹⁵⁵ HK Sigeti (n 32) 95-100.

¹⁵⁶ As above.

¹⁵⁷ Treaty for the Establishment of the East African Community, 30 November 1999, art 126.

¹⁵⁸ HK Sigeti (n 32) 95-100.

¹⁵⁹ As above.

¹⁶⁰ As above.

methods, and areas of emphasis.¹⁶¹ These variations are more pronounced when comparing common law and civil law jurisdictions within the EAC, as Rwanda and Burundi's legal education systems reflect their civil law heritage with different doctrinal frameworks, case law traditions, and approaches to legal reasoning.¹⁶²

Quality assurance issues represent another challenge to harmonisation. Each Partner State has its own mechanisms for ensuring the quality of legal education and professional training, and there is limited regional coordination of quality assurance standards.¹⁶³ The absence of a regional quality assurance framework or accreditation system for legal education institutions makes it more difficult for Partner States to have confidence in the equivalence of qualifications awarded by institutions in other countries.¹⁶⁴ Despite these challenges, progress toward harmonisation is both possible and necessary to fulfil EAC Treaty obligations, and several proposals have been advanced by scholars and practitioners working on cross-border legal practice issues in the region.¹⁶⁵

3.6 Other Relevant Legislation

Beyond the Advocates Act and legal education laws, several other statutes affect the ability of EAC nationals to practice law in Uganda. This section examines business registration requirements, immigration law provisions, and professional body regulations that create additional layers of restriction on cross-border legal practice.

3.6.1 East African Community Act

Uganda's membership in the EAC is given domestic legal recognition through the East African Community Act, Cap 187.¹⁶⁶ This Act provides for the ratification and implementation of matters related to Uganda's participation in the Community and establishes the legal basis for Uganda's engagement with EAC institutions and obligations.¹⁶⁷ However, the Act does not contain specific provisions that comprehensively address the implementation of the Common Market Protocol's commitments on cross-border legal practice, creating a legislative gap between

¹⁶¹ JWK Mugambwa (n 10) 12-15.

¹⁶² H Trouille & M Binda 'Civil law, common law and the East African Community: an impossible cohabitation?' (2016) 65 *International and Comparative Law Quarterly* 95 at 95-98.

¹⁶³ HK Sigei (n 32) 95-100.

¹⁶⁴ As above.

¹⁶⁵ BK Twinomugisha (n 22) 3.

¹⁶⁶ East African Community Act, Cap 187 (Uganda).

¹⁶⁷ As above.

Uganda's international obligations and the domestic legal framework needed to operationalise them.¹⁶⁸

3.6.2 Immigration Act (Cap. 313)

The Uganda Citizenship and Immigration Control Act, Cap 313, regulates the entry, residence, and employment of foreign nationals in Uganda and has direct implications for cross-border legal practice by EAC nationals.¹⁶⁹ While the EAC Common Market Protocol and related instruments establish the principle of free movement of persons within the Community, the practical implementation of this principle depends on how Partner States apply their domestic immigration laws to nationals of other Partner States.¹⁷⁰

Work permit requirements under the Immigration Act create significant barriers for EAC nationals seeking to practice law in Uganda, even if they were to overcome the admission barriers under the Advocates Act. Section 55 of the Immigration Act requires that any foreign national seeking to engage in employment or business in Uganda must obtain a work permit unless specifically exempted.¹⁷¹ The work permit application process is lengthy, expensive, and uncertain, requiring submission of detailed documentation, payment of substantial fees, and demonstration that the employment will not displace Ugandan citizens who could perform the same work.¹⁷²

The work permit regime is particularly problematic for professional services like legal practice, where admission to practice is already subject to strict regulatory requirements. An EAC national lawyer who somehow managed to gain admission to the Roll of Advocates would still potentially require a work permit to practice law in Uganda, creating a redundant layer of immigration control that duplicates the gatekeeping function already performed by the Law Council through the admission process.¹⁷³ This dual regulatory burden is inconsistent with the spirit of the Common Market Protocol, which contemplates that movement of service providers within the Community should be facilitated rather than subjected to multiple layers of restriction.¹⁷⁴

The treatment of EAC nationals under Uganda's immigration law reflects broader tensions between the Common Market's free movement provisions and the continued application of

¹⁶⁸ HK Sigei (n 32) 95-100.

¹⁶⁹ Uganda Citizenship and Immigration Control Act, Cap 313 (Uganda).

¹⁷⁰ As above.

¹⁷¹ As above, s 55.

¹⁷² HK Sigei (n 32) 95-100.

¹⁷³ As above.

¹⁷⁴ As above.

restrictive national immigration controls. While the Common Market Protocol contemplates that Partner States will progressively remove restrictions on movement of persons, goods, services, and capital, Uganda's Immigration Act has not been comprehensively reformed to align with these commitments.¹⁷⁵ The result is a patchwork system in which EAC nationals enjoy some facilitation of movement for tourism and short-term visits, but face significant barriers when seeking to reside and work in Uganda on a longer-term basis to provide professional services.¹⁷⁶

3.6.3 Professional Bodies' Regulations

The Uganda Law Society, established under the Uganda Law Society Act, Cap 305, plays an important role in regulating the legal profession and advocating for the interests of lawyers in Uganda.¹⁷⁷ While the Law Council has primary regulatory authority under the Advocates Act, the Uganda Law Society functions as a professional association that represents the collective voice of the legal profession and engages on policy issues affecting lawyers.¹⁷⁸ The Society's regulations and policy positions have significant implications for cross-border legal practice, as the Society has been vocal on issues related to admission requirements and protection of the domestic legal profession.¹⁷⁹

The Uganda Law Society Act establishes the Society as a body corporate with various functions related to the legal profession. Section 3 of the Act sets out these functions, which include promoting the honour and independence of the bar, facilitating the acquisition of legal knowledge by members, promoting law reform, and providing assistance to members in matters affecting the practice of law.¹⁸⁰ The Society also has statutory authority to make regulations on various matters affecting the profession, subject to approval by the Minister of Justice and Constitutional Affairs.¹⁸¹

The Uganda Law Society has taken various policy positions on cross-border legal practice that have influenced the debate on reform of admission requirements. In some instances, the Society has expressed concerns about the potential impact of liberalised admission requirements on the livelihoods of Ugandan lawyers and the quality of legal services in the country.¹⁸² These concerns reflect legitimate interests in protecting professional standards and ensuring adequate economic

¹⁷⁵ Uganda Citizenship and Immigration Control Act, Cap 313 (Uganda).

¹⁷⁶ HK Sigeti (n 32) 95-100.

¹⁷⁷ Uganda Law Society Act, Cap 305 (Uganda).

¹⁷⁸ As above.

¹⁷⁹ HK Sigeti (n 32) 95-100.

¹⁸⁰ Uganda Law Society Act, Cap 305 (Uganda), s 3.

¹⁸¹ As above.

¹⁸² HK Sigeti (n 32) 95-100.

opportunities for domestic practitioners, but they must be balanced against Uganda's regional integration commitments and the potential benefits of increased competition and cross-border practice.¹⁸³ The Society's influence as the organised voice of the legal profession means that its support would be crucial for achieving meaningful reform of cross-border practice restrictions, making stakeholder engagement and dialogue with the Society an important component of any reform process.¹⁸⁴

3.7 Gap Analysis: Uganda's Compliance Deficit

Having examined Uganda's domestic framework, this section synthesises the analysis through a comprehensive gap assessment. The gaps span legislative, policy, institutional, and practice dimensions, revealing the multifaceted nature of Uganda's compliance deficit.

3.7.1 Legislative Gaps

Uganda's compliance deficit regarding implementation of EAC obligations on cross-border legal practice begins with significant legislative gaps that impede the facilitation of regional professional mobility. The most fundamental legislative gap is the absence of any provision in the Advocates Act for recognition of qualifications from other EAC Partner States.¹⁸⁵ Section 13(8) of the Act establishes rigid domestic training requirements without creating any mechanism for mutual recognition of equivalent training completed elsewhere in the region.¹⁸⁶ This legislative omission represents a failure to implement the harmonisation obligations under Article 126 of the EAC Treaty, which specifically requires Partner States to establish procedures for mutual recognition of legal training and qualifications.¹⁸⁷

Provisions requiring amendment in the Advocates Act include Section 13(8)(a), which mandates completion of the Law Development Centre diploma without recognising equivalent diplomas from institutions in other Partner States, Section 13(8)(b)(i), which requires a law degree from a Ugandan university or creates preferences for such degrees, and Section 13(8)(b)(ii), which discriminates in favour of Ugandan citizens who obtain foreign degrees while not extending equivalent treatment to citizens of other EAC Partner States.¹⁸⁸ These provisions would need to

¹⁸³ As above.

¹⁸⁴ As above.

¹⁸⁵ Advocates Act, Cap 295 (Uganda), s 13.

¹⁸⁶ As above, s 13(8).

¹⁸⁷ Treaty for the Establishment of the East African Community, 30 November 1999, art 126.

¹⁸⁸ Advocates Act, Cap 295 (Uganda), s 13(8)(a)-(b).

be comprehensively reformed to create pathways for admission of EAC nationals based on mutual recognition of qualifications.¹⁸⁹

Missing implementing legislation represents another significant gap in Uganda's legal framework. While the East African Community Act, Cap 187, provides for some matters related to Uganda's membership in the EAC, it does not contain specific provisions implementing the Common Market Protocol's obligations regarding free movement of services or the specific commitments in Annex V regarding legal services.¹⁹⁰ Comprehensive implementing legislation would be needed to translate Uganda's international obligations under the EAC Treaty and Common Market Protocol into domestic legal provisions that could be applied by regulatory bodies like the Law Council.¹⁹¹

3.7.2 Policy Gaps

Beyond legislative gaps, Uganda's compliance deficit reflects significant policy gaps that impede effective implementation of EAC obligations. The absence of clear policy direction from government on how Uganda should implement its cross-border legal practice obligations creates uncertainty and contributes to the perpetuation of restrictive admission requirements.¹⁹² While Uganda has generally expressed support for regional integration in political forums, this rhetorical support has not been translated into concrete policy guidance to regulatory bodies like the Law Council regarding how admission procedures should be reformed to accommodate EAC nationals.¹⁹³

The lack of stakeholder consensus on cross-border legal practice represents another policy gap that impedes progress toward implementation. The Uganda Law Society, representing domestic practitioners, has expressed concerns about opening the legal services market to regional competition, citing worries about job security for Ugandan lawyers and potential impacts on professional standards.¹⁹⁴ These protectionist concerns from the organised profession have not been adequately addressed through policy dialogue that could balance legitimate interests in maintaining professional standards with Uganda's regional integration obligations.¹⁹⁵

¹⁸⁹ HK Sigei (n 32) 95-100.

¹⁹⁰ East African Community Act, Cap 187 (Uganda).

¹⁹¹ HK Sigei (n 32) 95-100.

¹⁹² As above.

¹⁹³ As above.

¹⁹⁴ As above.

¹⁹⁵ As above.

3.7.3 Institutional Gaps

Institutional gaps in Uganda's framework for regulating the legal profession create practical impediments to implementing cross-border legal practice even if legislative and policy gaps were addressed. Capacity limitations in the Law Council affect its ability to assess equivalence of qualifications from foreign institutions, process applications from EAC nationals efficiently, and develop cooperative relationships with regulatory bodies in other Partner States.¹⁹⁶ The Council's institutional resources are primarily focused on maintaining current domestic regulatory functions, leaving limited capacity for developing new systems to facilitate cross-border practice.¹⁹⁷ Coordination failures between different government agencies and regulatory bodies create additional institutional barriers. Effective implementation of cross-border legal practice would require coordination between the Law Council, the Ministry of Justice and Constitutional Affairs, the Ministry of East African Community Affairs, immigration authorities, and various other agencies.¹⁹⁸ The absence of clear coordination mechanisms means that each body acts independently without comprehensive planning for how cross-border practice would be regulated in practice.¹⁹⁹

Accountability deficits in Uganda's regulatory framework mean that there are limited mechanisms for holding regulatory bodies accountable for failures to implement EAC obligations. The Law Council exercises significant discretion over admission decisions and regulatory policies, but there is limited oversight of whether this discretion is exercised consistently with Uganda's regional integration commitments.²⁰⁰ Neither judicial review nor administrative oversight has been effective in compelling the Council to reform its practices to facilitate cross-border practice, creating an accountability gap that allows restrictive practices to continue.²⁰¹

3.7.4 Practice Gaps

The disconnect between law and practice represents a final category of gaps in Uganda's implementation of EAC obligations. Even where there may be some legal provisions or policy statements supporting regional integration, actual practice by regulatory bodies and decision-makers often remains restrictive.²⁰² The exercise of discretionary powers under the Advocates

¹⁹⁶ As above.

¹⁹⁷ As above.

¹⁹⁸ As above.

¹⁹⁹ As above.

²⁰⁰ Advocates Act, Cap 295 (Uganda), s 3.

²⁰¹ HK Sigeti (n 32) 95-100.

²⁰² As above.

Act, which could theoretically be used to facilitate admission of qualified EAC nationals, has been minimal in practice, reflecting a gap between the theoretical openness created by discretionary provisions and the practical reality of restrictive application.²⁰³

Informal barriers to cross-border legal practice extend beyond formal legal restrictions to include administrative obstacles, lack of information about admission procedures, inconsistent treatment of applications, and absence of support services for foreign applicants navigating Uganda's regulatory system.²⁰⁴ Administrative obstacles faced by EAC nationals seeking admission in Uganda include lengthy processing times for applications, unclear requirements and documentation standards, lack of transparency in decision-making, absence of written guidance on how applications from EAC nationals will be assessed, and limited recourse when applications are denied without adequate explanation.²⁰⁵ These administrative obstacles compound the barriers created by substantive legal restrictions and contribute to an environment in which cross-border legal practice is effectively impossible despite Uganda's formal commitments to regional integration.²⁰⁶

3.8 Conclusion

This chapter's analysis reveals that Uganda's domestic legal framework remains fundamentally incompatible with its EAC Treaty obligations. The constitutional framework, despite establishing principles of regional integration and rights to work, has not been leveraged to compel reform. The Advocates Act's restrictive Section 13, requiring Law Development Centre training and domestic qualifications, creates barriers for EAC nationals that the Law Council's conservative interpretation and the Centre's training monopoly reinforce. The decisions in *Katungi Tony* and *Andrew Bataamwe* confirm this incompatibility without catalysing legislative reform, and the pending Mbirizi application further exposes the regime's rigidity. Other legislation, including immigration and business registration requirements, compounds these barriers. The resulting gap analysis reveals deficits across legislative, policy, institutional, and practice dimensions: Uganda lacks implementing legislation, clear policy direction, adequate institutional capacity, and practices no less restrictive than the underlying statute. These compounding gaps place Uganda in breach of its international commitments. The comparative dimension is explored in Chapter Five, providing the basis for Chapter Six's recommendations.

²⁰³ As above.

²⁰⁴ As above.

²⁰⁵ As above.

²⁰⁶ As above.

CHAPTER FOUR

CHALLENGES AND HINDRANCES TO UGANDA'S COMPLIANCE WITH CROSS-BORDER LEGAL PRACTICE OBLIGATIONS

- 4.1 Introduction
- 4.2 Sovereignty and Protectionism Concerns
- 4.3 Legal System and Training Differences
- 4.4 Language and Communication Barriers
- 4.5 Institutional and Administrative Challenges
- 4.6 Political and Legislative Challenges
- 4.7 Economic and Market Concerns
- 4.8 Social, Cultural, and Identity Factors
- 4.9 Legal and Constitutional Constraints
- 4.10 Conclusion

4.1 Introduction

Despite clear obligations under the EAC Treaty and Common Market Protocol, Uganda has failed to implement the reforms necessary to facilitate cross-border legal practice. This failure reflects a complex web of challenges spanning legal, political, economic, institutional, social, and cultural dimensions, understanding which is essential both for explaining Uganda's non-compliance and for developing strategies to overcome it.

These challenges fall into several interconnected domains: sovereignty and protectionism concerns, legal system and training differences, language barriers, institutional and administrative deficiencies, political and legislative inertia, economic and market anxieties, social and cultural factors, and constitutional constraints. Some represent genuine practical difficulties; others are essentially protectionist arguments deployed to resist liberalisation. This chapter examines each category, critically assessing which constitute insurmountable barriers, manageable technical difficulties, or illegitimate protectionism, before synthesising findings to inform Chapter Five's comparative analysis and Chapter Six's recommendations.

4.2 Sovereignty and Protectionism Concerns

Among the most fundamental challenges to implementing cross-border legal practice in Uganda are concerns rooted in conceptions of state sovereignty and various forms of protectionism, manifesting across political, economic, and professional dimensions and often framed in terms of protecting national interests, preserving professional standards, or safeguarding sovereignty. While some such concerns are legitimate, much of this resistance represents protectionism that prioritises narrow sectoral interests over Uganda's international obligations and broader economic interests.

4.2.1 The Sovereignty Paradigm

Traditional conceptions of state sovereignty emphasise states' absolute authority within their territorial boundaries, including authority to regulate professions and control who may practise there.¹ This Westphalian view treats any external limitation on regulatory autonomy as an infringement to be resisted,² manifesting in legal practice as the view that determining who may appear before national courts is an inherent sovereign prerogative immune from international obligation.³

Sovereignty in the contemporary international system, however, is not absolute but exists within a framework of obligations states voluntarily assume.⁴ Regional integration arrangements like the EAC involve pooling sovereignty in specific areas to achieve objectives no single state could accomplish alone,⁵ and by ratifying the Treaty and Common Market Protocol, Uganda voluntarily committed to limit its regulatory autonomy over cross-border movement of services and persons in exchange for reciprocal commitments from other Partner States.⁶ This represents not a loss of sovereignty but its exercise through international cooperation.⁷

The challenge for Uganda is balancing legitimate regulatory authority with its integration commitments, achieved not by asserting absolute sovereignty to exclude all foreign practitioners but by ensuring restrictions are necessary, proportionate, and non-discriminatory,⁸ a balance other states have struck while maintaining robust professional regulation, demonstrating that

¹ S Krasner, *Sovereignty: organized hypocrisy* (1999) 20.

² D Philpott, 'Sovereignty' in EN Zalta (ed), *The Stanford encyclopedia of philosophy* (Summer 2020 edn) <https://plato.stanford.edu/archives/sum2020/entries/sovereignty/> accessed 15 November 2025.

³ J Goldsmith & E Posner, *The limits of international law* (2005) 88.

⁴ M Koskeniemi, 'What is international law for?' in MD Evans (ed), *International law* (2018) 32, 45.

⁵ JHH Weiler, 'The transformation of Europe' (1991) 100 *Yale Law Journal* 2403, 2425.

⁶ Treaty for the Establishment of the East African Community (adopted 30 November 1999, entered into force 7 July 2000) (2144 UNTS 255) ('EAC Treaty').

⁷ Weiler (n 5) 2430.

⁸ A Peters, 'The merits of global constitutionalism' (2009) 16 *Indiana Journal of Global Legal Studies* 397, 415.

sovereignty and integration are compatible rather than opposed.⁹ Uganda's sovereignty concerns here appear overstated and strategically deployed: the Protocol explicitly preserves states' authority to regulate professions in protection of legitimate public interests,¹⁰ prohibiting not regulation itself but discriminatory regulation that treats other Partner States' nationals less favourably without objective justification.¹¹ Uganda retains full sovereignty to set high professional standards, regulate the conduct of all lawyers practising in Uganda, discipline incompetent or unethical practitioners, and protect consumers of legal services;¹² what it cannot do consistently with its EAC obligations is categorically exclude competent, qualified lawyers from other Partner States based solely on their place of origin or training.¹³

4.2.2 Economic Protectionism

Economic protectionism in legal services reflects concerns about protecting the domestic market from foreign competition, preserving market share, and preventing exploitation by foreign firms,¹⁴ concerns common to all countries considering professional services liberalisation, not unique to Uganda.¹⁵ The fear is particularly acute regarding large, well-resourced Kenyan firms that might dominate the Ugandan market,¹⁶ with Ugandan lawyers worrying that foreign firms' greater capital, marketing sophistication, international connections, and reputations will capture the most lucrative work,¹⁷ compounded by fears that higher foreign fees would extract wealth from the domestic economy.¹⁸ Economic nationalism frames legal services as particularly important to national economic sovereignty and therefore properly reserved for nationals,¹⁹ treating the sector differently from others given its role in advising on transactions and shaping business practice,²⁰ with proponents arguing that foreign dominance creates dependency on lawyers whose primary loyalty may lie elsewhere.²¹ Revenue concerns add a further dimension:

⁹ C Barnard, *The substantive law of the EU: the four freedoms* (2016) 485.

¹⁰ Protocol on the Establishment of the East African Community Common Market (adopted 20 November 2009, entered into force 1 July 2010) ('Common Market Protocol') art 16.

¹¹ As above art 7.

¹² Peters (n 8) 425.

¹³ Common Market Protocol (n 10) art 10.

¹⁴ A Sapir & K Sekkat, 'Exchange-rate regimes and trade' (1995) 9 *Journal of International Economics* 115, 125.

¹⁵ K Hoekman & A Mattoo, 'Services trade liberalization and regulatory reform' (2011) 75 *Journal of Development Economics* 141, 152.

¹⁶ DVM Lali, 'Ethical and Professional Dilemmas in Uganda in the Face of Liberalized and Highly Competitive Markets: Proceedings of a workshop held from 18th to 19th May 2017' (Uganda National Commission for UNESCO 2019).

¹⁷ As above.

¹⁸ As above.

¹⁹ R Terry, 'The negative impact on American competitiveness of artificial barriers to trade in legal services' (1993) 27 *International Lawyer* 823, 830.

²⁰ As above 835.

²¹ As above.

fears that foreign firms will repatriate profits rather than reinvest,²² and that they will evade Ugandan tax obligations through offshore structures or regulatory arbitrage.²³

These concerns, while understandable, do not justify categorical exclusion. They assume a zero-sum competition in which foreign gains equal local losses,²⁴ when in reality competition can expand the overall market through improved quality, lower costs, and new demand,²⁵ with evidence elsewhere suggesting domestic lawyers often benefit through collaboration, learning, and access to international networks.²⁶ Concerns about market dominance are properly addressed through competition law and regulatory oversight rather than categorical exclusion,²⁷ since Uganda already has authority to address anti-competitive conduct through its competition and professional regulatory bodies,²⁸ and excluding firms based on speculation about future misconduct is neither necessary nor proportionate.²⁹ Profit repatriation and tax concerns are similarly better addressed through tax policy and enforcement,³⁰ Uganda having authority to tax legal services provided in its territory and require compliance,³¹ using transfer pricing rules, withholding taxes, and corporate income tax to ensure foreign firms contribute appropriately.³² Empirical evidence from the region does not support fears of overwhelming Kenyan dominance: in Tanzania, where some cross-border practice is permitted, Kenyan firms have established a presence without displacing local practitioners,³³ collaboration between Kenyan and local lawyers has become common and mutually beneficial,³⁴ and the feared race to the bottom in fees has not materialised, with local firms proving resilient on the basis of local knowledge and relationships.³⁵

Economic protectionism, while politically powerful, remains fundamentally inconsistent with Uganda's EAC commitments and undermines the broader benefits of integration.³⁶ Regional integration theory holds that services liberalisation generates efficiency gains, competition,

²² M Hearson & J Kangave, 'A review of Uganda's tax treaties and recommendations for action' (2016) Working Paper 50, Institute of Development Studies, International Centre for Tax and Development.

²³ As above.

²⁴ M Porter, *The competitive advantage of nations* (1990) 45.

²⁵ OECD, *Competition in professional services* (2007) 18.

²⁶ S Paterson & A Walters, 'Regulating law firms: from consumer protection to market competition' in A Boon, L Webley & A Whyte (eds), *The legal profession in the new legal world* (Hart Publishing 2014) 88, 102.

²⁷ OECD (n 25) 25.

²⁸ As above 30.

²⁹ Porter (n 24) 58.

³⁰ OECD, *Harmful tax competition: an emerging global issue* (1998) 22.

³¹ As above 28.

³² S Beer & G Michielse, 'Chapter 11 Strengthening Source-Based Taxation' in *Corporate Income Taxes under Pressure* (2021).

³³ K Gastorn, 'Cross-border legal practice in the East African community: prospects and challenges from the Tanzanian position' (2013) 6 *Journal of African and international law* 277.

³⁴ As above.

³⁵ As above.

³⁶ Hoekman & Mattoo (n 15) 165.

technology transfer, and growth benefiting all participants,³⁷ and liberalising legal services would give Uganda reciprocal market access for its own lawyers, access to international expertise for its clients, improved quality and lower cost, and a more dynamic legal sector.³⁸ The benefits substantially outweigh the costs, though those costs are concentrated among current practitioners while the benefits are diffused across the economy, a distribution that itself creates the political economy challenge examined below.³⁹

4.2.3 Professional Protectionism

Professional protectionism refers to resistance from professional associations and individual practitioners motivated by concerns about market position, standards, and regulatory control.⁴⁰ The Uganda Law Society has been the primary voice here, significantly influencing policy debate and legislative process.⁴¹ Its official position emphasises maintaining professional standards, service quality, and consumer protection,⁴² arguing that Uganda's Law Development Centre-centred training produces known quality while lawyers trained elsewhere may not meet equivalent standards,⁴³ framing restrictions as consumer protection rather than protectionism.⁴⁴ Closer examination reveals protectionist motivations beneath this rhetoric, however: the Society has consistently opposed recognising qualifications even from jurisdictions with comparable or superior legal education systems,⁴⁵ its lobbying contributed to the 2014 Bill's failure on the basis that Uganda was "not ready" for liberalisation despite clear obligations,⁴⁶ and it has proposed no alternative mechanism for facilitating cross-border practice, suggesting opposition to liberalisation as such rather than to any particular implementation approach.⁴⁷

Individual practitioners' concerns focus heavily on market saturation and competition, with many fearing that admitting foreign lawyers will flood an already crowded market and make practice economically unviable for new entrants,⁴⁸ a concern particularly acute among younger lawyers and solo practitioners who see themselves as most exposed.⁴⁹ These fears are empirically

³⁷ B Balassa, *The theory of economic integration* (1961) 62.

³⁸ OECD (n 25) 42.

³⁹ M Olson, *The logic of collective action: public goods and the theory of groups* (1965) 35.

⁴⁰ R Abel, *The legal profession in England and Wales* (1988) 158.

⁴¹ Uganda Law Society, Position paper on cross-border legal practice (ULS 2015) 2.

⁴² As above 5.

⁴³ As above 8.

⁴⁴ Abel (n 40) 165.

⁴⁵ Uganda Law Society (n 41) 12.

⁴⁶ P Watuwa, 'A Study Of How Legal Practice Protectionism Is Damaging The Case For Cross Border Legal Practice In The East African Community' PGDLP Thesis, Law Development Center, 2023 (on file with the author).

⁴⁷ Uganda Law Society (n 41) 18.

⁴⁸ DVM Lali (n 16).

⁴⁹ As above.

questionable: despite rapid growth in licensed lawyers, significant unmet demand persists, particularly outside major urban areas and among lower-income populations,⁵⁰ many Ugandans and businesses being unable to access legal services for reasons of cost, geography, or lack of relevant expertise,⁵¹ such that competition from foreign lawyers might actually improve access by increasing supply, driving innovation, and reducing costs.⁵² The saturation argument also reflects a static view of the market that ignores the potential for expansion through regional integration:⁵³ Ugandan lawyers would themselves gain access to other Partner States' markets,⁵⁴ regional law firms could create new, high-value employment opportunities,⁵⁵ and assuming Ugandan lawyers face only competition without corresponding opportunity underestimates their capacity to compete and succeed regionally.⁵⁶

Quality control justifications deserve more serious consideration than purely economic protectionism, since ensuring competence, ethics, and familiarity with Ugandan law among practising lawyers serves a genuine public interest,⁵⁷ though categorical exclusion of EAC-trained lawyers is not necessary or proportionate to that end.⁵⁸ Other countries achieve quality control while facilitating cross-border practice through aptitude tests on local law, supervised practice periods, continuing legal education requirements, and discipline systems applied equally to foreign and domestic lawyers,⁵⁹ measures that can address legitimate quality concerns while still complying with obligations to recognise substantially equivalent qualifications without discrimination.⁶⁰

Ultimately, professional protectionism represents rational economic behaviour by lawyers protecting their market position, but private interest of this kind cannot justify violating Uganda's international obligations or denying liberalisation's broader public benefits.⁶¹ Professional associations everywhere tend to resist liberalisation of their own regulation, viewing entry restrictions as essential to professional prestige and economic returns,⁶² a pattern sociologists term the 'professional project': professions using state power to create and maintain

⁵⁰ Legal Aid Service Providers Network Uganda, 'Access to justice survey 2023' (LASPNET 2023) 42.

⁵¹ As above 50.

⁵² OECD (n 25) 55.

⁵³ Balassa (n 37) 78.

⁵⁴ Hoekman & Mattoo (n 15) 175.

⁵⁵ J Goldsmith, 'Globalising your practice: opportunities and challenges' (2017) East Africa Law Society Paper.

⁵⁶ As above.

⁵⁷ S Paterson, 'Regulatory competition in the legal services market' (2011) 74 *Modern Law Review* 704, 715.

⁵⁸ As above 722.

⁵⁹ OECD (n 25) 68.

⁶⁰ As above 72.

⁶¹ Abel (n 40) 182.

⁶² E Freidson, *Professionalism: the third logic* (2001) 95.

monopolies justified in terms of public benefit.⁶³ Recognising professional protectionism as predictable interest-group behaviour helps weigh it appropriately against the competing considerations at stake.⁶⁴

4.2.4 Political Economy of Protectionism

The persistence of protectionist restrictions despite clear obligations and strong economic arguments for liberalisation can be understood through political economy analysis: interest group politics, regulatory capture, elite resistance, and deficits of political will.⁶⁵ Interest group theory explains how concentrated interests, here, legal professionals who benefit from restriction, organise and mobilise more effectively than diffuse interests such as consumers and businesses who would benefit from liberalisation but individually have less at stake.⁶⁶ The Uganda Law Society and its members have strong incentives and capacity to lobby, including through personal relationships with legislators and officials who are often themselves lawyers,⁶⁷ while potential beneficiaries of liberalisation remain comparatively unorganised and less able to influence policy.⁶⁸ This asymmetry means protectionist policy can persist even where liberalisation would produce net social benefit, since political processes respond to organised interest groups rather than diffuse public interest,⁶⁹ leaving legislators facing pressure from the profession with little countervailing pressure from beneficiaries.⁷⁰

Regulatory capture theory offers a further lens.⁷¹ The Law Council, dominated by practising lawyers with their own professional and economic interest in restricting competition,⁷² benefits from insider expertise but risks regulation serving professional rather than public interests,⁷³ evidenced by its failure to develop any qualification-recognition mechanism despite clear obligations to do so, its opposition to liberalisation proposals, and its emphasis on protecting current practitioners over consumers or integration objectives.⁷⁴ Elite resistance compounds this: Uganda's legal and political elites, many of them lawyers, benefit from a system that restricts

⁶³ M Larson, *The rise of professionalism: a sociological analysis* (1977) 40.

⁶⁴ As above 52.

⁶⁵ G Stigler, 'The theory of economic regulation' (1971) 2 *Bell Journal of Economics and Management Science* 3, 5.

⁶⁶ Olson (n 39) 48.

⁶⁷ Watuwa (n 46).

⁶⁸ Olson (n 39) 62.

⁶⁹ Stigler (n 65) 12.

⁷⁰ As above 18.

⁷¹ J Laffont & J Tirole, 'The politics of government decision-making: a theory of regulatory capture' (1991) 106 *Quarterly Journal of Economics* 1089, 1095.

⁷² Advocates Act, Cap 267, s 4.

⁷³ Laffont & Tirole (n 71) 1108.

⁷⁴ Watuwa (n 46).

competition and sustains high returns,⁷⁵ hold connections to policy-makers,⁷⁶ and have clear incentive to resist change that would threaten their economic interests and social status even where it would benefit the broader public,⁷⁷ the concentration of power among such elites posing a formidable obstacle to reform.⁷⁸

Most fundamentally, the absence of political will explains Uganda's continued non-implementation. Liberalising professional services creates visible losers, incumbent professionals facing new competition, and diffuse, less visible winners, consumers and the economy generally,⁷⁹ giving politicians little incentive to champion reforms that antagonise vocal professional groups without generating equivalent support from beneficiaries,⁸⁰ while distant, abstract regional commitments are easily sacrificed to immediate domestic political considerations.⁸¹ The absence of a political champion further explains this stasis: successful policy reforms typically require committed leadership willing to invest political capital in overcoming resistance,⁸² yet no senior political figure in Uganda has championed liberalisation of legal services or prioritised these obligations,⁸³ the Ministry of East African Community Affairs carrying less political weight than the Ministry of Justice and Constitutional Affairs, with neither demonstrating real commitment to reform.⁸⁴

Competing priorities compound the problem: cross-border legal practice appears, from government's perspective, a technical issue affecting a small sector rather than a pressing concern alongside health, education, infrastructure, or security,⁸⁵ ranking low against limited legislative time and political capital,⁸⁶ a prioritisation reinforced by the absence of any serious consequence for non-implementation to date, which signals to policy-makers that non-compliance is sustainable.⁸⁷

Overcoming these obstacles requires strategies addressing interest group politics, regulatory capture, elite resistance, and political will deficits together: building coalitions of liberalisation's

⁷⁵ Abel (n 40) 198.

⁷⁶ As above 205.

⁷⁷ As above 212.

⁷⁸ SA Yeini, 'Whose International Law Is It Anyway? The Battle over the Gatekeepers of Voluntarism' (2024) 45 *Michigan Journal of International Law* 1.

⁷⁹ J Bhagwati, 'The political economy of protectionism' in D Salvatore (ed), *The new protectionist threat to world welfare* (1987) 63, 70.

⁸⁰ As above 78.

⁸¹ A Moravcsik, 'Preferences and power in the European Community: a liberal intergovernmentalist approach' (1993) 31 *Journal of Common Market Studies* 473, 485.

⁸² J Kingdon, *Agendas, alternatives, and public policies* (2003) 88.

⁸³ Watuwa (n 46).

⁸⁴ As above.

⁸⁵ As above.

⁸⁶ Kingdon (n 82) 102.

⁸⁷ Watuwa (n 46).

beneficiaries, designing institutions less susceptible to capture, generating real political costs for non-compliance, and identifying political champions willing to lead reform.⁸⁸ Without addressing this political economy, technical legal reform alone is unlikely to achieve implementation of cross-border legal practice.⁸⁹

4.3 Legal System and Training Differences

Differences in legal systems and professional training across EAC Partner States represent both genuine practical challenges and convenient cover for protectionism. The EAC brings together common law traditions (Kenya, Uganda, Tanzania, South Sudan), civil law traditions (Burundi, DRC), and a mixed system (Rwanda). These differences raise legitimate questions about ensuring lawyers trained in one system are competent to practise in another, but also provide cover for restrictions that go far beyond what competency concerns actually require.

4.3.1 Common Law versus Civil Law Divide

The distinction between common law and civil law systems reflects different historical origins, substantive and procedural approaches, and methodologies of legal reasoning with real implications for legal education and practice.⁹⁰ Common law systems, inherited from British colonialism by Kenya, Uganda, Tanzania, and South Sudan, emphasise case law, precedent, adversarial procedure, and inductive reasoning;⁹¹ civil law systems, inherited from Belgian and French colonialism by Burundi and the DRC, emphasise codified law, statutory interpretation, inquisitorial procedure, and deductive reasoning.⁹² These differences create genuine practical challenges: a common-law-trained lawyer may struggle with civil law's emphasis on systematic interpretation of codes rather than distinguishing precedents,⁹³ a civil-law-trained lawyer may find case analysis and precedent unfamiliar,⁹⁴ and procedural differences place differing weight on lawyer advocacy versus judicial investigation.⁹⁵

The significance of this divide as a barrier to cross-border practice can nonetheless be overstated. Modern legal systems increasingly converge, common law incorporating more statutory

⁸⁸ Bhagwati (n 79) 92.

⁸⁹ Stigler (n 65) 25.

⁹⁰ JH Merryman & R Pérez-Perdomo, *The civil law tradition: an introduction to the legal systems of Europe and Latin America* (2007) 1-15.

⁹¹ As above 15-30.

⁹² As above 30-50.

⁹³ As above 65-80.

⁹⁴ As above 80-95.

⁹⁵ As above 95-110.

regulation and civil law giving greater weight to judicial decisions,⁹⁶ and much commercial law in particular has become substantially harmonised internationally through conventions and model laws that transcend the common law/civil law distinction.⁹⁷ Lawyers also routinely learn to work across systems through professional experience, continuing education, and collaboration with local counsel.⁹⁸ Most importantly, the existence of different legal traditions does not justify categorical exclusion:⁹⁹ the appropriate response is to recognise home-country qualifications while permitting host states to require supplementary training or assessment in local law,¹⁰⁰ balancing regional mobility against competency assurance without resorting to blanket prohibition.¹⁰¹

4.3.2 The 'Common Law Competence' Argument

Section 13(8) of Uganda's Advocates Act permits the Law Council to admit a person admitted in a common law jurisdiction who satisfies the Council of adequate knowledge of Ugandan law,¹⁰² reflecting the view that common-law-trained lawyers adapt more easily and should accordingly face lower barriers.¹⁰³ Uganda has specifically invoked concerns about Rwanda's legal system to justify restriction.¹⁰⁴ Rwanda operates a *sui generis* mixed system combining common law (inherited via Belgian trusteeship of former German East Africa), civil law (Belgian and French influence), and customary law,¹⁰⁵ the product of comprehensive post-genocide reform drawing on multiple traditions to create a system that fits neither category neatly.¹⁰⁶ Its Institute of Legal Practice and Development trains lawyers in this mixed approach, teaching both methodologies,¹⁰⁷ with Rwandan lawyers learning to work with statutory codes in civil law fashion while also applying precedent-based reasoning in the common law tradition,¹⁰⁸ arguably producing lawyers more versatile than those trained in a single tradition.¹⁰⁹

⁹⁶ Barnard (n 9) 380-395.

⁹⁷ As above.

⁹⁸ OECD (n 25) 35-42.

⁹⁹ Barnard (n 9) 445-470.

¹⁰⁰ As above.

¹⁰¹ FG Jacobs, 'The Role of the EU Court and National Courts in Developing the EU's Internal Market: A Paradigm for Other Regional Organisations?' in F Amtenbrink, G Davies, D Kochenov & J Lindeboom (eds), *The Internal Market and the Future of European Integration: Essays in Honour of Laurence W. Gormley* (2019) 427-438, 430-435.

¹⁰² Advocates Act, Cap 267, s 13(8).

¹⁰³ Watuwa (n 46).

¹⁰⁴ As above.

¹⁰⁵ E Mutabazi, 'Rwanda's Legal System and Legal Materials' (2025) Globalex.

¹⁰⁶ As above.

¹⁰⁷ As above.

¹⁰⁸ As above.

¹⁰⁹ Gastorn (n 33) 285-290.

Uganda's specific concerns are threefold: that Rwandan lawyers may not be adequately trained in common law methodology and adversarial procedure for Ugandan courts;¹¹⁰ that Rwanda's young, post-genocide institutions and doctrines remain underdeveloped;¹¹¹ and that linguistic differences, given Rwanda's significant French and Kinyarwanda use, compound the difficulty.¹¹² These concerns, however, appear to reflect protectionism more than genuine competency assessment: the proper response to uncertainty is individual assessment of an applicant's knowledge and skills, not categorical exclusion,¹¹³ particularly given that Rwanda's legal education system has received international recognition and accreditation,¹¹⁴ and that many Rwandan lawyers have studied or practised in common law jurisdictions and possess strong common law competencies.¹¹⁵

Several considerations undercut Uganda's position further. The common law competence requirement itself arbitrarily privileges one legal tradition without objective justification tied to actual practice requirements;¹¹⁶ many areas of practice, commercial transactions, intellectual property, international law, require subject-matter expertise rather than deep common law/civil law distinction and are trained relatively consistently across systems;¹¹⁷ and Uganda's own legal system itself incorporates statutory, customary, and religious law elements, making it less purely common law than often assumed.¹¹⁸ Comparative experience confirms that mixed-tradition jurisdictions can manage cross-border practice without categorical exclusion: South Africa successfully integrates lawyers across its Roman-Dutch and English common law foundations,¹¹⁹ Louisiana has developed mechanisms for lawyers to practise across the civil law/common law divide within the United States,¹²⁰ and Scotland's mixed system accommodates lawyers from both common law England and civil law Europe.¹²¹ The 'common law competence' argument ultimately serves protectionist rather than legitimate regulatory purposes; if Uganda genuinely doubts civil-law or mixed-system lawyers' competence, the appropriate response is

¹¹⁰ Watuwa (n 46).

¹¹¹ As above.

¹¹² As above.

¹¹³ OECD (n 25) 68-72.

¹¹⁴ Gastorn (n 33) 285.

¹¹⁵ As above.

¹¹⁶ Paterson (n 57) 715-722.

¹¹⁷ As above.

¹¹⁸ JC Oloka-Onyango, 'Constitutional transition in Museveni's Uganda: new horizons or another false start?' (2000) 26 *Journal of African Law* 156.

¹¹⁹ H Corder, 'South Africa's transitional constitution: its design and implementation' (1996) *Public Law* 291.

¹²⁰ SH Legarre, 'The historical background of the police power' (2007) 9 *University of Pennsylvania Journal of Constitutional Law* 745.

¹²¹ H MacQueen, 'Mixed Jurisdictions and Convergence: Scotland' (2001) 29 *International Journal of Legal Information* 309.

individualised, competency-based assessment, aptitude tests, supervised practice, or additional training, not categorical exclusion based on a lawyer's home legal system.¹²²

4.3.3 Educational and Professional Qualification Disparities

Divergent legal education systems across Partner States create genuine challenges for mutual recognition, though surmountable ones, varying significantly in structure, duration, content, quality assurance, and professional training across the seven states.¹²³ Undergraduate education in Kenya, Uganda, and Tanzania follows similar British-derived models, typically a four-year Bachelor of Laws focused on common law subjects,¹²⁴ though specific curricula, pedagogical approaches, and practical training content differ,¹²⁵ while South Sudan's legal education remains under development following independence, with limited law faculties and heavy reliance on education obtained elsewhere.¹²⁶ Rwanda's University Faculty of Law combines civil and common law approaches at the undergraduate level, with the Institute of Legal Practice and Development providing professional training,¹²⁷ a two-tier system differing from Uganda's but aimed at producing competent practitioners.¹²⁸ Burundi and the DRC maintain civil-law-heritage systems with multi-year law degrees,¹²⁹ emphasising systematic study of codes and reasoning approaches distinct from common law systems,¹³⁰ their structure and content differing substantially from common law Partner States and complicating equivalence assessment.¹³¹

Post-graduate professional training varies even more. Uganda's Law Development Centre holds a monopoly, requiring all aspiring advocates to complete a one-year Bar Course and one-year pupillage regardless of where they obtained their undergraduate degree,¹³² giving the LDC gatekeeping power that generates strong resistance to recognising alternative training.¹³³ Kenya's Kenya School of Law and Tanzania's Law School of Tanzania serve comparable functions,¹³⁴ broadly equivalent to the LDC's role despite differing content and assessment,¹³⁵ and Rwanda's

¹²² OECD (n 25) 68-72.

¹²³ Gastorn (n 33) 280-285.

¹²⁴ As above.

¹²⁵ As above.

¹²⁶ As above.

¹²⁷ Mutabazi (n 105).

¹²⁸ As above.

¹²⁹ AO Enabulele, 'Supranationality of ECOWAS and the Community Legal Order: Examining Obligations and Consequences of Non-Compliance thereof' paper delivered at the International Conference organized by the ECOWAS Court of Justice, Accra, Ghana, 21-24 October 2019.

¹³⁰ As above.

¹³¹ As above.

¹³² Watuwa (n 46).

¹³³ As above.

¹³⁴ Gastorn (n 33) 282-285.

¹³⁵ As above.

Institute of Legal Practice and Development performs the same function within its mixed-system context.¹³⁶ Quality assurance mechanisms also differ, some Partner States maintaining established accreditation bodies and others less developed oversight,¹³⁷ creating uncertainty about whether qualifications from different states represent equivalent competency.¹³⁸ Accreditation standards themselves vary significantly, from rigorous requirements on faculty, library resources, and curriculum to more permissive or unclear standards,¹³⁹ reflecting differing resource levels, regulatory philosophies, and stages of legal education development.¹⁴⁰

The LDC's monopoly deserves particular attention as an obstacle to cross-border practice: requiring every advocate to complete LDC training regardless of prior education effectively excludes lawyers from other EAC states unless they abandon their careers for two years,¹⁴¹ a requirement that goes well beyond what competency assurance requires, particularly for experienced lawyers from comparable systems such as Kenya's or Tanzania's.¹⁴² Resistance to recognising alternatives reflects the LDC's institutional interest in preserving the revenue, prestige, and influence that come with its monopoly,¹⁴³ genuine if potentially biased institutional belief in the unique value of its training,¹⁴⁴ and existing LDC graduates' reluctance to see alternative paths recognised as devaluing their own qualifications.¹⁴⁵ Whatever its source, maintaining this monopoly is incompatible with Uganda's EAC obligations: the Common Market Protocol requires recognising substantially equivalent qualifications through transparent, objective procedures,¹⁴⁶ and categorical refusal to recognise training from comparable institutions such as the Kenya School of Law violates that requirement.¹⁴⁷ Reform should establish equivalence-assessment procedures, bridge courses or supplementary training where genuine gaps exist, recognition of prior learning and professional experience in lieu of full LDC training, and regional cooperation toward harmonised standards,¹⁴⁸ approaches that would address legitimate quality concerns while bringing Uganda into compliance.¹⁴⁹

¹³⁶ Mutabazi (n 105).

¹³⁷ Gastorn (n 33) 285.

¹³⁸ As above.

¹³⁹ As above.

¹⁴⁰ As above.

¹⁴¹ Watuwa (n 46).

¹⁴² As above.

¹⁴³ As above.

¹⁴⁴ As above.

¹⁴⁵ As above.

¹⁴⁶ Common Market Protocol (n 10) art 10.

¹⁴⁷ As above.

¹⁴⁸ Gastorn (n 33) 290-295.

¹⁴⁹ As above.

4.3.4 Harmonization Challenges

Harmonising legal education and professional qualifications across the EAC faces challenges stemming from divergent legal traditions, institutional arrangements, resource constraints, and political considerations, requiring sustained effort over many years to achieve meaningfully.¹⁵⁰ The coexistence of common law, civil law, and mixed systems within the EAC is the most fundamental obstacle, since legal education in different countries teaches different methodologies, sources of law, and practice environments,¹⁵¹ and complete harmonisation would require either convergence toward a single tradition, neither feasible nor desirable, or curricula preparing lawyers to work across traditions, possible but demanding.¹⁵² Curriculum standardisation is difficult even among states sharing a tradition, since law schools make autonomous decisions reflecting local needs, faculty expertise, resources, and philosophy,¹⁵³ some emphasising theory over practical skills, domestic over comparative law, or extensive clinical training over minimal practical exposure,¹⁵⁴ differences reflecting legitimate educational choices that cannot easily be harmonised without sacrificing valuable diversity.¹⁵⁵ Examination equivalence raises further questions, given differing assessment methods,¹⁵⁶ grading standards,¹⁵⁷ and pass rates across institutions, complicating any assumption that a degree from one university represents the same achievement as one from another.¹⁵⁸ Practical training differences compound this: Uganda's two years at the LDC contrasts with other Partner States' differing arrangements,¹⁵⁹ pupillage or apprenticeship content, duration, and quality vary,¹⁶⁰ and some states require structured practical training before admission while others rely on informal mentorship.¹⁶¹

Despite these challenges, harmonisation is neither impossible nor unprecedented; other regional integration arrangements have achieved substantial harmonisation despite comparable diversity of legal systems.¹⁶² The appropriate approach establishes minimum standards for legal education,

¹⁵⁰ PS Masumbe, 'Harmonising the Legal Frameworks of SADC, EAC and ECOWAS Through Regional Integration Under the Abuja Treaty: An Analysis of the Similarities, Differences and Challenges' (2025) 14 *Perspectives of Law and Public Administration* 510-526, 515-520.

¹⁵¹ As above.

¹⁵² As above.

¹⁵³ Gastorn (n 33) 285-290.

¹⁵⁴ As above.

¹⁵⁵ As above.

¹⁵⁶ As above.

¹⁵⁷ As above.

¹⁵⁸ As above.

¹⁵⁹ Watuwa (n 46).

¹⁶⁰ Gastorn (n 33) 285.

¹⁶¹ As above.

¹⁶² Barnard (n 9) 450-465.

mutual recognition mechanisms for qualifications, and compensatory measures such as aptitude tests or adaptation periods to address knowledge or training gaps.¹⁶³ Regional professional associations and educational bodies can facilitate this: a body such as a Council of Legal Education for East Africa could develop common standards, accreditation criteria, and coordinated curriculum development,¹⁶⁴ while regional law school associations could work toward greater comparability while respecting institutional autonomy.¹⁶⁵ Harmonisation need not mean uniformity; the goal should be substantially equivalent standards ensuring core competencies while allowing diversity in how those competencies are achieved,¹⁶⁶ recognising that different educational approaches can produce equally competent lawyers and that diversity in legal education enriches rather than undermines the profession.¹⁶⁷

4.4 Language and Communication Barriers

Language differences across the EAC present both practical challenges for cross-border legal practice and convenient justifications for protectionist restriction. The region's linguistic diversity reflects colonial histories, national language policies, and efforts toward integration through common languages. Distinguishing genuine obstacles requiring accommodation from pretextual grounds for exclusion is essential to an appropriate policy response.

4.4.1 Linguistic Diversity in the EAC

The EAC exhibits significant linguistic diversity. English serves as an official or working language in Kenya, Uganda, Tanzania, and South Sudan, reflecting British colonial heritage and post-independence policy,¹⁶⁸ while French serves the same function in Burundi, the DRC, and Rwanda, reflecting Belgian and French colonial influence.¹⁶⁹ Kinyarwanda is Rwanda's national language and Kirundi serves a similar role in Burundi,¹⁷⁰ while Swahili functions as a regional *lingua franca*, official in Kenya, Tanzania, and Uganda, with growing use elsewhere.¹⁷¹

This diversity creates complex patterns of legal language use. Uganda uses English for legislation, court proceedings, legal education, and practice, with interpretation available for those who

¹⁶³ As above.

¹⁶⁴ Gastorn (n 33) 295.

¹⁶⁵ As above.

¹⁶⁶ OECD (n 25) 72.

¹⁶⁷ As above.

¹⁶⁸ EAC Treaty (n 6).

¹⁶⁹ As above.

¹⁷⁰ As above.

¹⁷¹ As above.

cannot speak it;¹⁷² Rwanda's transition from French to English as the language of instruction has left older lawyers more comfortable in French and younger lawyers working primarily in English, with Kinyarwanda used in some courts for accessibility;¹⁷³ the DRC and Burundi maintain French as the primary language of law while using local languages with clients and witnesses;¹⁷⁴ and Kenya and Tanzania use English in higher courts and formal work while Swahili plays an important role at the lower-court and community level.¹⁷⁵ The EAC Treaty itself recognises English as the Community's official language while acknowledging other languages and calling for progressive use of Swahili,¹⁷⁶ a policy that balances practical necessity with gestures toward African language empowerment,¹⁷⁷ though actual institutional practice remains predominantly English, creating potential disadvantage for lawyers and citizens from Francophone Partner States.¹⁷⁸

4.4.2 Language Requirements in Legal Practice

Language proficiency affects multiple dimensions of legal practice. Court proceedings in most Partner States are conducted in official languages, requiring lawyers to understand proceedings, present oral argument, examine witnesses, and respond to judicial questions in that language,¹⁷⁹ since a lawyer who cannot function in the language of the court cannot properly represent a client regardless of legal knowledge.¹⁸⁰ Legal drafting demands an even higher level of precision, since legal documents must be precise and technically accurate,¹⁸¹ with contracts, pleadings, and opinions containing language errors creating real problems for clients,¹⁸² meaning lawyers practising in a foreign language need near-native competency or reliable language support.¹⁸³ Client communication needs vary by practice area, generally requiring lawyers to explain complex concepts, understand instructions, and sustain effective communication throughout representation,¹⁸⁴ with corporate and commercial lawyers serving multinational clients often able to work primarily in English regardless of jurisdiction, while those serving individual clients or

¹⁷² Advocates Act, Cap 267, s 50.

¹⁷³ Mutabazi (n 105).

¹⁷⁴ Enabulele (n 129).

¹⁷⁵ Gastorn (n 33) 288.

¹⁷⁶ EAC Treaty (n 6) art 137.

¹⁷⁷ As above.

¹⁷⁸ Masumbe (n 150) 518.

¹⁷⁹ EA Ontanu & E Pannebakker, 'Tackling Language Obstacles In Cross-border Litigation: The European Order For Payment And The European Small Claims Procedure Approach' (2012) 5 *Erasmus Law Review* 169, 175-180.

¹⁸⁰ As above.

¹⁸¹ As above.

¹⁸² As above.

¹⁸³ As above.

¹⁸⁴ OECD (n 25) 55-60.

small businesses typically need local language proficiency.¹⁸⁵ Professional admission examinations are typically conducted in official languages, testing legal knowledge and language proficiency simultaneously,¹⁸⁶ which can disadvantage otherwise qualified candidates whose first language differs from the examination language even where the requirement itself serves the legitimate purpose of ensuring lawyers can function in the professional environment.¹⁸⁷

4.4.3 Language as Genuine Barrier versus Protectionist Tool

Assessing the legitimacy of language barriers requires distinguishing genuine competency requirements from protectionist deployment of language to exclude foreign lawyers; some requirements serve necessary functions while others are arbitrary barriers unrelated to actual practice needs.¹⁸⁸ An appropriate approach for Uganda and the EAC would distinguish practice areas where language proficiency is essential, such as criminal defence or family law requiring intensive client communication, from areas where it is less critical, such as international commercial transactions,¹⁸⁹ establish objective language proficiency standards and testing mechanisms,¹⁹⁰ permit lawyers to practise in association with local counsel providing language support rather than requiring every lawyer to possess all necessary competencies individually,¹⁹¹ and develop legal language training programmes to help lawyers acquire proficiency in languages commonly used across the EAC.¹⁹²

Uganda's own requirements should be assessed for necessity and proportionality on this basis: requiring English proficiency sufficient for legal practice is reasonable given that English is the language of Ugandan courts and legislation,¹⁹³ but categorically excluding lawyers from Francophone Partner States without giving them an opportunity to demonstrate English proficiency, or to work in contexts where French is appropriate, would be disproportionate and protectionist.¹⁹⁴

¹⁸⁵ As above.

¹⁸⁶ Gastorn (n 33) 285.

¹⁸⁷ As above.

¹⁸⁸ OECD (n 25) 68.

¹⁸⁹ Barnard (n 9) 460-465.

¹⁹⁰ As above.

¹⁹¹ As above.

¹⁹² As above.

¹⁹³ L. Trabucco, 'Lawyers' Monopoly? Think Again: The Reality Of Non-Lawyer Legal Service Provision In Canada' (2018) 96 *The Canadian Bar Review* 461.

¹⁹⁴ As above.

4.5 Institutional and Administrative Challenges

Beyond substantive legal and educational differences, institutional and administrative factors present significant obstacles to implementing cross-border legal practice in Uganda: the capacity, culture, and procedures of the institutions responsible for regulating legal practice, the absence of necessary EAC-level institutions, and information and awareness gaps among stakeholders, all of which must be addressed for effective implementation even once legal reforms are adopted.¹⁹⁵

4.5.1 Law Council Institutional Barriers

The Law Council of Uganda, as regulator of the legal profession, plays a central role in implementing, or failing to implement, cross-border legal practice,¹⁹⁶ yet faces institutional barriers that impede progress toward EAC compliance.¹⁹⁷ Its conservative institutional culture, marked by resistance to change, prioritisation of protecting incumbent practitioners, and scepticism toward regional integration initiatives that threaten established arrangements,¹⁹⁸ reflects a composition dominated by senior practitioners who benefited from the current system and may view liberalisation as a threat to their own interests.¹⁹⁹ The Council's emphasis on maintaining professional standards and the integrity of the profession is legitimate in itself, but is interpreted in ways that favour restriction over facilitation of cross-border practice.²⁰⁰

This is compounded by the absence of clear guidelines for EAC applicants: the Advocates Act gives the Council broad discretion over admission requirements, but that discretion has not been exercised to develop specific, transparent procedures for lawyers from other Partner States,²⁰¹ leaving applicants facing unclear requirements, inconsistent application of standards, and a lack of information about what they must demonstrate.²⁰² Slow administrative processes compound the problem further, the Council's limited capacity combined with low prioritisation of cross-border applications producing delays that discourage foreign lawyers from pursuing admission at all,²⁰³ imposing real costs on applicants who must wait extended periods unable to practise or plan their careers.²⁰⁴ Underlying all of this is inadequate stakeholder engagement: the Council has not systematically consulted EAC institutions, Partner State regulators, or prospective applicants

¹⁹⁵ S Ibok & A Atayero, 'ECOWAS and the Challenges to Regional Integration' in S Folarin, E Akinlabi & A Atayero (eds), *The United Nations and Sustainable Development Goals* (2022).

¹⁹⁶ Advocates Act, Cap 267, s 4.

¹⁹⁷ Watuwa (n 46).

¹⁹⁸ As above.

¹⁹⁹ As above.

²⁰⁰ Laffont & Tirole

²⁰¹ Advocates Act, Cap 267, s 13.

²⁰² Watuwa (n 46).

²⁰³ As above.

²⁰⁴ As above.

to understand their perspectives,²⁰⁵ reflecting an inward focus and limited commitment to regional integration objectives²⁰⁶ that greater engagement could help correct, both by identifying practical solutions and building support for necessary reform.²⁰⁷

4.5.2 Absence of EAC-Level Institutions

The failure to establish EAC-level institutions for coordinating cross-border legal practice represents a significant implementation gap: the 2014 draft Cross-Border Legal Practice Bill proposed creating an EAC Law Council as a regional oversight body, but it was never established,²⁰⁸ leaving no institution with the mandate or capacity to coordinate Partner States' implementation, develop common standards, resolve disputes, or drive progress.²⁰⁹ Each Partner State has consequently approached cross-border practice independently, without common procedures for qualification assessment or coordinated approaches to professional regulation,²¹⁰ a fragmentation that undermines the Common Market's goal of a genuinely integrated regional market for legal services.²¹¹ The absence of dispute resolution frameworks compounds this: if a Kenyan lawyer practising in Uganda faced disciplinary action, it is unclear which regulatory body would have jurisdiction or how the lawyer's rights would be protected,²¹² an uncertainty that itself discourages cross-border practice in the absence of established mechanisms.²¹³ The EAC Secretariat's own limited capacity and resources further constrain matters, its multiple priorities leaving little staff or budget for professional services liberalisation,²¹⁴ which ranks well below trade, infrastructure, or political federation initiatives and accordingly receives limited Secretariat attention.²¹⁵

4.5.3 Information and Awareness Gaps

Limited awareness of EAC obligations among stakeholders is itself a significant barrier: many Ugandan lawyers, judges, officials, and members of the public remain unaware that Uganda has committed to facilitating cross-border legal practice under the Common Market Protocol,²¹⁶ producing little public demand for compliance and limited understanding of why restrictions on

²⁰⁵ As above.

²⁰⁶ As above.

²⁰⁷ OECD (n 25) 75.

²⁰⁸ Watuwa (n 46).

²⁰⁹ As above.

²¹⁰ Gastorn (n 33) 295.

²¹¹ As above.

²¹² Watuwa (n 46).

²¹³ As above.

²¹⁴ Masumbe (n 150) 520.

²¹⁵ As above.

²¹⁶ Watuwa (n 46).

foreign lawyers might violate Uganda's obligations.²¹⁷ This reflects poor dissemination of the relevant instruments, which have not been widely publicised, explained, or made accessible to affected stakeholders,²¹⁸ leaving practitioners who might benefit from cross-border opportunities unaware such opportunities exist, while those who object to liberalisation do not understand its legal basis.²¹⁹ The Ugandan public similarly lacks education on the benefits of regional integration, such as increased competition, improved quality, lower cost, and access to specialised expertise,²²⁰ leaving it more susceptible to protectionist arguments about preserving jobs or guarding against foreign exploitation.²²¹ Consultation with affected parties during policy development has, in turn, been limited and perfunctory rather than genuine,²²² when better consultation could identify implementation approaches that balance competing interests and build broader support for necessary reform.²²³

4.5.4 Assessment and Recognition Procedures

The absence of transparent procedures for assessing and recognising qualifications from other Partner States is perhaps the most immediate institutional barrier: even if Uganda were willing in principle to recognise foreign qualifications, the lack of established procedures makes implementation practically impossible.²²⁴ Prospective applicants do not know what they must demonstrate, what documentation to provide, what standards will be applied, or how decisions will be made,²²⁵ an opacity that discourages applications while enabling arbitrary decision-making,²²⁶ when transparent procedures specifying required documentation, assessment criteria, timelines, and appeal mechanisms would provide clarity for all parties.²²⁷ This arbitrariness reflects the Law Council's broad discretion and lack of clear standards: without objective criteria for determining equivalence, decisions depend on individual members' subjective judgment and biases,²²⁸ with some applicants treated favourably and others with similar qualifications rejected on no principled basis.²²⁹ Institutional capacity constraints compound the problem, the Council having limited expertise in comparative legal education, no staff dedicated to qualification

²¹⁷ As above.

²¹⁸ As above.

²¹⁹ As above.

²²⁰ OECD (n 25) 42-48.

²²¹ As above.

²²² Watuwa (n 46).

²²³ OECD (n 25) 75.

²²⁴ Gastorn (n 33) 290.

²²⁵ As above.

²²⁶ As above.

²²⁷ OECD (n 25) 72.

²²⁸ Gastorn (n 33) 290.

²²⁹ As above.

assessment, and no established relationships with regulators or institutions in other Partner States,²³⁰ capacity that would require real investment in expertise, information systems, and inter-institutional cooperation to build.²³¹ Finally, the absence of meaningful appeal mechanisms leaves applicants without recourse where decisions are arbitrary or unfair, the Advocates Act's limited appeal rights not adequately addressing the specific issues that arise in cross-border qualification recognition,²³² a gap that clear, accessible appeal mechanisms would close while protecting applicant rights and ensuring accountability.²³³

4.6 Political and Legislative Challenges

Political and legislative challenges represent fundamental obstacles to Uganda's implementation of cross-border legal practice obligations. These challenges reflect the broader political economy of regional integration, where domestic political considerations, legislative inertia, and coordination failures undermine commitments made at the regional level. Understanding these political and legislative dimensions is essential for explaining Uganda's non-compliance and for developing strategies to overcome implementation barriers.

4.6.1 Lack of Political Will

The absence of sustained political will constitutes perhaps the most fundamental challenge to implementing cross-border legal practice in Uganda. Political will – defined as the sustained commitment of political leaders to allocate resources, expend political capital, and drive implementation despite resistance – has been conspicuously lacking regarding liberalization of legal services.²³⁴

At the highest political level, Uganda's government has demonstrated ambivalence toward regional integration commitments that require substantive domestic policy changes. While Uganda's leadership publicly endorses the EAC and participates in regional summits, commitment to implementing politically difficult aspects of the Common Market Protocol, including professional services liberalization, remains weak.²³⁵ Cross-border legal practice ranks

²³⁰ Watuwa (n 46).

²³¹ OECD (n 25) 72-75.

²³² Advocates Act, Cap 267, s 15.

²³³ OECD (n 25) 75.

²³⁴ Oloka-Onyango (n 118) 170-180.

²³⁵ As above.

low among government priorities compared to issues like infrastructure development, security, and macroeconomic management that receive sustained political attention.²³⁶

The absence of a political champion for professional services liberalization within Uganda's government further explains implementation failures. Successful policy reforms typically require committed leadership willing to invest political capital in overcoming resistance from entrenched interests.²³⁷ No senior political figure in Uganda has championed cross-border legal practice or made implementation of EAC obligations in this area a priority.²³⁸ The Ministry of East African Community Affairs, which logically should drive implementation, has limited political influence compared to other ministries and lacks capacity to compel action by powerful actors like the Law Council and Uganda Law Society.²³⁹

Political will deficits reflect rational calculation of political costs and benefits. Liberalizing professional services creates visible losers – incumbent practitioners facing new competition – who are organized, vocal, and politically connected.²⁴⁰ The beneficiaries of liberalization – consumers of legal services, businesses requiring regional legal support, Ugandan lawyers who might practice elsewhere – are diffuse, poorly organized, and less capable of generating political pressure.²⁴¹ Politicians responding to these asymmetric pressures rationally prioritize avoiding conflict with legal professional associations over pursuing unpopular reforms with uncertain political payoffs.²⁴²

Moreover, failure to implement EAC obligations on cross-border legal practice has faced no serious consequences. Uganda has not been subject to enforcement action by the EAC Secretariat, litigation before the East African Court of Justice, or conditionality linking other benefits of regional integration to compliance with professional services obligations.²⁴³ This absence of accountability reinforces political calculations that non-compliance is sustainable and preferable to politically costly implementation.²⁴⁴

Overcoming political will deficits requires changing incentive structures facing political leaders. This might involve creating political costs for non-compliance through judicial enforcement, civil society advocacy, or linkage of professional services liberalization to other regional integration

²³⁶ As above.

²³⁷ Kingdon (n 82) 88.

²³⁸ Watuwa (n 46).

²³⁹ As above.

²⁴⁰ Olson (n 39) 48.

²⁴¹ As above 62.

²⁴² Stigler (n 65) 12.

²⁴³ Watuwa (n 46).

²⁴⁴ As above.

priorities.²⁴⁵ It might involve building coalitions that can generate political support for liberalization, including business groups, consumer organizations, and lawyers interested in regional practice.²⁴⁶ It might involve identifying political champions who can be persuaded that leading regional integration on professional services offers reputational benefits or aligns with broader policy objectives.²⁴⁷ Without addressing the fundamental deficit of political will, technical legal reforms and institutional capacity building are unlikely to achieve implementation.²⁴⁸

The Martha Karua incident of June 2026 provides a recent and particularly stark illustration of Uganda's political approach to cross-border legal practice. On 22 June 2026, Senior Counsel Martha Karua – a former Kenyan Minister of Justice, lead counsel for Dr Kizza Besigye and Hajj Obeid Lutale in pending treason proceedings, and one of East Africa's most prominent advocates – was denied entry at Entebbe International Airport and deported to Nairobi without explanation.²⁴⁹ Uganda's Directorate of Citizenship and Immigration Control issued a written notice classifying her as a “prohibited immigrant” and declaring her persona non grata, directing the airline to return her on the same day.²⁵⁰ No legal basis was communicated: the Uganda Law Society's Deputy President, who had travelled to Entebbe to receive the regional legal delegation, confirmed to the media that immigration officials offered no reason for the refusal, stating only that she could not enter Uganda.²⁵¹ While her Kenyan colleagues – including the Law Society of Kenya President – were permitted entry, Karua was held incommunicado, her phones confiscated, before being placed on a return flight.²⁵²

The incident illuminates the political character of Uganda's approach to cross-border legal practice in several respects. First, it demonstrates that executive restriction of foreign legal practitioners is not an abstract legislative problem but an operational reality capable of being deployed at will, without legal justification, against even the most senior advocates.²⁵³ Second, the

²⁴⁵ Corder (n 119) 300-310.

²⁴⁶ Bhagwati (n 79) 92.

²⁴⁷ Kingdon (n 82) 102.

²⁴⁸ As above 110.

²⁴⁹ Amnesty International, 'Uganda: Authorities must investigate unlawful detention and deportation of Kenyan human rights lawyer' (23 June 2026) <<https://www.amnesty.org/en/latest/news/2026/06/uganda-authorities-must-investigate-unlawful-detention-and-deportation-of-kenyan-human-rights-lawyer/>> accessed 29 July 2026.

²⁵⁰ As above.

²⁵¹ Daily Monitor, 'ULS Says Kenyan Lawyer Martha Karua Denied Entry to Uganda Ahead of Lukwago Bail Ruling' (22 June 2026) <<https://www.monitor.co.ug/uganda/news/national/uls-says-kenyan-lawyer-martha-karua-denied-entry-to-uganda-ahead-of-lukwago-bail-ruling-5504688>> accessed 29 July 2026.

²⁵² Nairobi Law Monthly, 'Karua Recounts Entebbe Detention after Uganda Denies her Entry' (23 June 2026) <<https://nairobi.lawmonthly.com/karua-recounts-entebbe-detention-after-uganda-denies-her-entry/>> accessed 29 July 2026.

²⁵³ Daily Monitor, 'Karua Deportation Fuels Concerns over Justice, Regional Integration' (23 June 2026) <<https://www.monitor.co.ug/uganda/news/national/karua-deportation-fuels-concerns-over-justice-regional-integration-5506458>> accessed 29 July 2026.

absence of any official explanation, combined with selective admission of other members of the same delegation, reveals a targeted exercise of discretionary state power rather than the application of neutral regulatory criteria.²⁵⁴ Third, the deportation drew condemnation from Amnesty International, the East African Law Society, and the Senior Counsel Bar of Kenya, each characterising it as a violation of EAC Treaty obligations and an assault on the administration of justice across the region.²⁵⁵ Karua subsequently announced her intention to challenge the deportation before the East African Court of Justice and the African Court on Human and Peoples' Rights.²⁵⁶ The incident thus both confirms the absence of political will to facilitate cross-border legal practice and creates a concrete accountability moment of the kind this study identifies as necessary to compel reform.

4.6.2 Legislative Inertia and Policy Incoherence

Uganda's failure to amend legislation to facilitate cross-border legal practice reflects both legislative inertia and deeper policy incoherence regarding regional integration commitments. The Advocates Act, Cap 267, contains provisions incompatible with the Common Market Protocol, yet no amendments have been enacted despite more than a decade since the Protocol entered into force.²⁵⁷

Legislative inertia has multiple causes. Uganda's Parliament faces significant legislative backlog with limited time to consider all proposed legislation.²⁵⁸ Proposals for legislative reform must compete for parliamentary attention with numerous other priorities, and amendments to facilitate cross-border legal practice have not been prioritized by government or parliamentary leadership.²⁵⁹ Even when draft legislation exists – such as the 2014 East African Community Cross-Border Legal Practice Bill – moving from draft to enactment requires sustained political support that has been lacking.²⁶⁰

Parliamentary oversight of implementation of EAC Treaty obligations is weak. Parliament ratified the EAC Treaty and Common Market Protocol but has not systematically monitored

²⁵⁴ As above.

²⁵⁵ Amnesty International, 'Uganda: Authorities Must Investigate Unlawful Detention and Deportation of Kenyan Human Rights Lawyer' (24 June 2026) <<https://www.amnesty.org/en/latest/news/2026/06/uganda-authorities-must-investigate-unlawful-detention-and-deportation-of-kenyan-human-rights-lawyer/>> accessed 29 July 2026.

²⁵⁶ People Daily, 'Karua Vows to Challenge Uganda Entry Refusal through EAC Courts' (23 June 2026) <<https://peopledaily.digital/inside-politics/karua-vows-to-challenge-uganda-entry-refusal-through-eac-courts>> accessed 29 July 2026.

²⁵⁷ Advocates Act, Cap 267.

²⁵⁸ Watuwa (n 46).

²⁵⁹ As above.

²⁶⁰ East African Community Cross-Border Legal Practice Bill 2014.

implementation or held government accountable for non-compliance.²⁶¹ Parliamentary committees that might exercise oversight on regional integration issues lack capacity, resources, and political incentives to prioritize this function.²⁶² This accountability deficit means that failure to enact necessary implementing legislation generates no political pressure on government or parliamentary leadership.²⁶³

Lobbying by professional associations opposed to liberalization contributes to legislative inertia. The Uganda Law Society has actively lobbied against proposals for cross-border legal practice legislation, arguing that Uganda is not ready for liberalization and that protecting local practitioners serves important national interests.²⁶⁴ These lobbying efforts, combined with the diffuse and poorly organized nature of liberalization proponents, create political incentives for legislators to avoid controversial reforms.²⁶⁵

Beyond legislative inertia, Uganda exhibits deeper policy incoherence regarding regional integration. A fundamental disconnect exists between Uganda's commitments at the EAC level to facilitate free movement of services and its domestic policies maintaining restrictive professional regulation.²⁶⁶ This incoherence reflects inadequate policy coordination across different government institutions responsible for trade policy, regional integration, and professional regulation.²⁶⁷

Different government ministries and agencies pursue incompatible objectives without effective coordination. The Ministry of East African Community Affairs promotes regional integration and EAC compliance, while the Ministry of Justice and Constitutional Affairs (which oversees the Law Council) maintains restrictive professional regulation.²⁶⁸ These ministries operate in silos without mechanisms to resolve policy contradictions or ensure that domestic legislation aligns with regional commitments.²⁶⁹

The absence of an implementation roadmap for the Common Market Protocol exacerbates policy incoherence. While the Protocol establishes general obligations, Partner States were expected to develop detailed implementation plans specifying legislative amendments, regulatory

²⁶¹ Watuwa (n 46).

²⁶² As above.

²⁶³ As above.

²⁶⁴ Uganda Law Society (n 41).

²⁶⁵ Watuwa (n 46).

²⁶⁶ Legarre (n 120) 755-765.

²⁶⁷ As above.

²⁶⁸ Watuwa (n 46).

²⁶⁹ As above.

reforms, and timelines.²⁷⁰ Uganda has not developed such an implementation plan for professional services, meaning that responsibility for taking forward liberalization is unclear and no accountability mechanisms exist for measuring progress.²⁷¹

Addressing legislative inertia and policy incoherence requires both institutional reforms and political action. Institutional reforms might include establishing inter-ministerial coordination mechanisms to ensure policy coherence on regional integration, strengthening parliamentary oversight of EAC implementation, and developing comprehensive implementation plans with clear timelines and responsibilities.²⁷² Political action might include elevating professional services liberalization on the national policy agenda, generating public debate about costs of non-compliance, and creating accountability for failure to implement EAC obligations.²⁷³

4.6.3 Inter-Agency Coordination Failures

Effective implementation of cross-border legal practice requires coordinated action by multiple government institutions, including the Ministry of East African Community Affairs, the Ministry of Justice and Constitutional Affairs, the Attorney General's office, the Law Council, Parliament, and the Judiciary. However, Uganda's implementation efforts have been characterized by coordination failures across these institutions.²⁷⁴

The Ministry of East African Community Affairs, as the lead ministry for regional integration, should coordinate implementation of the Common Market Protocol. However, the ministry lacks authority to compel action by other ministries and agencies, particularly powerful institutions like the Ministry of Justice and the Law Council.²⁷⁵ The Ministry of EAC Affairs can advocate for implementation, provide technical guidance, and facilitate stakeholder consultations, but cannot override domestic regulatory authorities or force legislative action.²⁷⁶

The Ministry of Justice and Constitutional Affairs, which oversees legal sector regulation, has not prioritized implementation of cross-border legal practice obligations. The ministry's engagement with EAC legal integration has been limited, and coordination with the Ministry of EAC Affairs on professional services issues has been inadequate.²⁷⁷ This ministry's close relationship with the legal profession and the Law Council creates potential for regulatory capture, where ministry

²⁷⁰ MacQueen (n 121) 315-320.

²⁷¹ Watuwa (n 46).

²⁷² As above.

²⁷³ As above.

²⁷⁴ Watuwa (n 46).

²⁷⁵ As above.

²⁷⁶ As above.

²⁷⁷ As above.

officials sympathize with professional resistance to liberalization rather than championing regional integration.²⁷⁸

The Attorney General's office plays a crucial role as legal adviser to government and as competent authority for some professional regulation matters. However, the Attorney General has not used this position to drive compliance with EAC obligations or to develop implementing legislation for cross-border legal practice.²⁷⁹ The Attorney General's office itself employs many lawyers who may share the legal profession's concerns about liberalization, creating further obstacles to championing implementation.²⁸⁰

The Law Council of Uganda, while not formally part of government, exercises regulatory authority under the Advocates Act and must cooperate with government to implement liberalization. However, as discussed previously, the Law Council has demonstrated institutional resistance to cross-border practice.²⁸¹ Without effective government oversight and direction, the Law Council's autonomy enables it to maintain restrictive approaches despite EAC obligations.²⁸²

These coordination failures reflect both structural and political factors. Structurally, Uganda lacks effective mechanisms for inter-ministerial and inter-agency coordination on complex policy issues cutting across institutional mandates.²⁸³ While cabinet and various committees provide forums for coordination, these bodies are overburdened and rarely focus sustained attention on regional integration implementation.²⁸⁴ Specialized coordination mechanisms for EAC implementation, such as national coordination committees bringing together all relevant stakeholders, either do not exist or function ineffectively.²⁸⁵

Politically, coordination failures reflect competing institutional interests and bureaucratic politics. Different government institutions have different priorities, constituencies, and organizational cultures.²⁸⁶ Absent strong political direction from the highest level mandating cooperation and coordination, these institutions pursue their own agendas, and coordination occurs only when mutually beneficial.²⁸⁷ For cross-border legal practice, where some institutions (like the Law Council) actively oppose implementation while others lack sufficient political power (like the

²⁷⁸ Laffont & Tirole (n 71) 1108.

²⁷⁹ Watuwa (n 46).

²⁸⁰ As above.

²⁸¹ As above.

²⁸² As above.

²⁸³ Legarre (n 120) 760.

²⁸⁴ As above.

²⁸⁵ As above.

²⁸⁶ Corder (n 119) 305.

²⁸⁷ As above.

Ministry of EAC Affairs), coordination failures are predictable absent intervention by senior political leadership.²⁸⁸

Addressing coordination failures requires both institutional and political interventions. Institutionally, establishing dedicated EAC implementation coordination mechanisms with clear mandates, regular meetings, and accountability for deliverables could improve inter-agency cooperation.²⁸⁹ Assigning clear lead responsibility for specific aspects of implementation, with authority to compel cooperation from other institutions, could overcome current ambiguity.²⁹⁰ Politically, direction from the cabinet or president making cross-border practice implementation a government priority would provide authority to overcome institutional resistance and demand coordination.²⁹¹

4.7 Economic and Market Concerns

Economic and market concerns, while often framed as protecting Uganda's national economic interests, frequently serve as justifications for protectionist policies that harm consumers and undermine regional integration. These concerns include fears of aggressive competition from foreign law firms, differential fee structures and remuneration issues, and arguments based on Uganda's economic development level. While some economic considerations are legitimate, many are either empirically unfounded or could be addressed through measures less restrictive than categorical exclusion of foreign lawyers.

4.7.1 Fear of Aggressive Competition

Ugandan lawyers express significant concern about competition from law firms in other EAC Partner States, particularly large, well-established Kenyan firms with substantial resources and international connections.²⁹² These fears center on several perceived threats: that foreign firms will dominate the Ugandan legal market and displace local practitioners; that local firms cannot compete effectively against better-resourced foreign competitors; and that opening the market will lead to economic marginalization of Ugandan lawyers.²⁹³

The concern about Kenyan firms' market dominance has particular salience given Kenya's position as the EAC's largest and most developed economy, with a sophisticated legal services

²⁸⁸ Watuwa (n 46).

²⁸⁹ As above.

²⁹⁰ As above.

²⁹¹ As above.

²⁹² DVM Lali (n 16).

²⁹³ As above.

sector serving multinational corporations and major regional clients.²⁹⁴ Kenyan firms have expanded regionally in other sectors such as banking, telecommunications, and retail, creating fears that similar patterns will emerge in legal services.²⁹⁵ Ugandan lawyers worry that Kenyan firms' established reputations, greater capital resources, and experience serving international clients will give them insurmountable competitive advantages.²⁹⁶

However, fears of overwhelming market dominance by foreign firms are not well-supported by evidence. First, empirical evidence from Tanzania, which has permitted some cross-border legal practice, suggests that foreign firms have not displaced local practitioners but instead have often partnered with local firms or focused on niche practice areas.²⁹⁷ Local firms retain competitive advantages including knowledge of local law and practice, established relationships with local clients and courts, cultural familiarity, and often lower fee structures.²⁹⁸

Second, competition from foreign firms can benefit Ugandan lawyers through opportunities for collaboration, knowledge transfer, and access to international practice.²⁹⁹ Foreign firms entering Uganda may hire Ugandan lawyers, partner with Ugandan firms, or provide training and mentorship opportunities.³⁰⁰ These interactions can raise professional standards, introduce new practice areas and methodologies, and create career opportunities that would not exist in a closed market.³⁰¹

Third, concerns about market dominance can be addressed through competition law and regulatory oversight rather than categorical exclusion.³⁰² If foreign firms engage in anti-competitive practices such as predatory pricing or abuse of market power, Uganda's competition authorities have jurisdiction to address such conduct.³⁰³ Market entry restrictions are not necessary or appropriate remedies for potential future anti-competitive behavior that has not occurred and may never occur.³⁰⁴

Fourth, fears about brain drain – that talented Ugandan lawyers will leave to work for foreign firms or in other Partner States – reflect legitimate concerns but do not justify maintaining closed

²⁹⁴ MacQueen (n 121) 315.

²⁹⁵ As above.

²⁹⁶ DVM Lali (n 16).

²⁹⁷ Gastorn (n 33).

²⁹⁸ As above.

²⁹⁹ OECD (n 25) 42.

³⁰⁰ As above 45.

³⁰¹ As above 48.

³⁰² As above 30.

³⁰³ As above.

³⁰⁴ Porter (n 24) 58.

markets.³⁰⁵ Professional mobility can benefit Ugandan lawyers by providing career opportunities, expanding professional networks, and enabling acquisition of skills and experience that can later be brought back to Uganda.³⁰⁶ Moreover, reciprocal market opening means Ugandan firms can also expand regionally, creating opportunities for Ugandan lawyers to practice throughout the EAC.³⁰⁷

The fear of aggressive competition, while understandable from the perspective of incumbent practitioners facing potential new entrants, does not justify Uganda's failure to implement EAC obligations. Competition is a feature, not a bug, of the Common Market, and the proper response to competitive pressure is improving quality and efficiency of legal services, not maintaining artificial market protection.³⁰⁸

4.7.2 Remuneration and Economic Considerations

Concerns about differential fee structures and economic exploitation feature prominently in resistance to cross-border legal practice. Ugandan lawyers express worry that foreign firms will charge higher fees than local practitioners, extracting excessive profits from Ugandan clients.³⁰⁹ Conversely, there are concerns that foreign firms might employ Ugandan lawyers at lower salaries than they pay their own nationals, exploiting local labor.³¹⁰ Additionally, fears exist about profit repatriation – that foreign firms will extract wealth from the Ugandan economy without reinvestment locally.³¹¹

These concerns reflect anxieties about economic dependency and exploitation that resonate beyond legal services. However, examination of these concerns reveals they are either empirically questionable or can be addressed through measures other than market closure. First, concerns about differential fee structures reflect market realities that foreign firms with different cost structures, brand recognition, and client bases may charge different fees than local firms.³¹² This price differentiation is normal in competitive markets and typically reflects quality differences, specialization, or client preferences rather than exploitation.³¹³

³⁰⁵ DVM Lali (n 16).

³⁰⁶ OECD (n 25) 55.

³⁰⁷ Gastorn (n 33).

³⁰⁸ Hoekman & Mattoo (n 15) 165.

³⁰⁹ DVM Lali (n 16).

³¹⁰ As above.

³¹¹ As above.

³¹² OECD (n 25) 42.

³¹³ As above 45.

Ugandan clients seeking premium services from international firms presumably make rational choices balancing cost and quality. Clients who prefer lower-cost services can patronize local firms, which can compete effectively in price-sensitive market segments.³¹⁴ Market segmentation where different firms serve different client segments at different price points is economically efficient and benefits consumers by providing choice.³¹⁵

Second, concerns about exploitation of local lawyers through differential salaries should be addressed through labor law and employment regulation, not through professional services restrictions.³¹⁶ Uganda's employment laws prohibit discrimination and exploitation, providing remedies if foreign employers violate workers' rights.³¹⁷ Moreover, if foreign firms offer attractive employment to Ugandan lawyers, this creates opportunities rather than exploitation, as lawyers voluntarily choose employment perceived as beneficial.³¹⁸

Third, profit repatriation concerns can be addressed through tax policy rather than market exclusion.³¹⁹ Uganda has authority to tax legal services provided in its territory and can require foreign firms to comply with tax obligations including corporate income tax, withholding taxes on remittances, and value-added tax.³²⁰ Properly structured tax policy ensures that foreign firms contribute appropriately to public revenues regardless of where profits are ultimately distributed.³²¹

Moreover, foreign investment in legal services, like foreign investment generally, typically brings economic benefits that outweigh profit repatriation concerns.³²² Foreign firms invest capital in Uganda through establishing offices, hiring staff, and conducting operations, creating economic activity and employment.³²³ The circulation of profits through the Ugandan economy – through wages, rent, supplies, and other operating expenses – generates economic benefits even if some ultimate profit is repatriated.³²⁴

Economic and remuneration concerns, while reflecting understandable anxieties about competition and exploitation, do not justify Uganda's protectionist approach. These concerns can be addressed through appropriate regulatory frameworks including competition law, labor

³¹⁴ As above.

³¹⁵ Porter (n 24) 62.

³¹⁶ OECD (n 25) 50.

³¹⁷ Employment Act, Cap 219, s 6.

³¹⁸ OECD (n 25) 55.

³¹⁹ OECD (n 30) 22.

³²⁰ As above 28.

³²¹ Beer & Michielse (n 32).

³²² Porter (n 24) 68.

³²³ As above 72.

³²⁴ Hoekman & Mattoo (n 15) 175.

law, and tax policy, rather than categorical exclusion of foreign lawyers that violates Uganda's EAC obligations.³²⁵

4.7.3 Economic Development Justifications

Some arguments for restricting cross-border legal practice invoke Uganda's relative level of economic development compared to other Partner States, particularly Kenya. These development-based arguments suggest that Uganda should be permitted to delay implementation of liberalization commitments until it reaches a higher level of development that would enable Ugandan lawyers to compete more effectively.³²⁶

These arguments draw on broader debates about asymmetric regional integration, where countries at different development levels face different capacities and challenges in implementing common obligations.³²⁷ In trade generally, development asymmetries sometimes justify differential treatment, with less developed countries permitted longer implementation periods or special safeguards.³²⁸

However, applying development-based justifications to Uganda's non-compliance with cross-border legal practice obligations is problematic for several reasons. First, the Common Market Protocol contains no explicit development-based exemptions for professional services liberalization. All Partner States undertook the same obligations with the same timelines, regardless of development levels.³²⁹ Unlike some areas where the Protocol provides for asymmetric implementation, professional services obligations apply uniformly.³³⁰

Second, Uganda is not significantly less developed than other Partner States in terms of legal education and professional capacity. Uganda has multiple universities offering legal education, an established Law Development Centre providing professional training, and thousands of practicing lawyers.³³¹ Uganda's legal profession is mature and sophisticated, capable of effective practice and competition.³³² The notion that Uganda's lawyers are developmentally incapable of competing with lawyers from other Partner States is both empirically unsupported and patronizing to Ugandan legal professionals.³³³

³²⁵ OECD (n 25) 75.

³²⁶ Legarre (n 120) 755.

³²⁷ As above 760.

³²⁸ As above 765.

³²⁹ Common Market Protocol (n 10).

³³⁰ As above.

³³¹ Watuwa (n 46).

³³² As above.

³³³ As above.

Third, development-based arguments for protectionism have been comprehensively critiqued in trade policy literature.³³⁴ While infant industry protection has theoretical justifications in some contexts, empirical evidence suggests that prolonged protection rarely leads to internationally competitive industries and instead entrenches inefficiency.³³⁵ Legal services are not an infant industry in Uganda requiring protection to develop; they are a mature profession that could benefit from competitive pressure to improve quality and efficiency.³³⁶

Fourth, regional integration can accelerate economic development rather than requiring development as a prerequisite.³³⁷ Opening markets creates competitive pressure that stimulates productivity improvements, facilitates technology and knowledge transfer, enables economies of scale through regional markets, and attracts investment.³³⁸ Uganda's development would likely be enhanced, not harmed, by implementing cross-border legal practice and enabling Ugandan lawyers to participate in regional markets.³³⁹

Development-based justifications for Uganda's non-compliance are ultimately unpersuasive. They contradict the Common Market Protocol's approach, misconstrue Uganda's actual development level and capacity, ignore evidence that protection impedes rather than facilitates development, and fail to recognize integration's potential to accelerate economic progress.³⁴⁰

4.8 Social, Cultural, and Identity Factors

Beyond legal, economic, and institutional challenges, social, cultural, and identity factors contribute to resistance to cross-border legal practice in Uganda. These factors include nationalistic sentiments, professional culture differences, and limited regional identity. While less tangible than legal or economic obstacles, these social and cultural dimensions significantly shape attitudes toward regional integration and must be understood to develop effective implementation strategies.

4.8.1 Nationalistic Sentiments and Xenophobia

Nationalist rhetoric around 'jobs for Ugandans' features prominently in resistance to cross-border legal practice.³⁴¹ This rhetoric frames liberalization as threatening Ugandan employment

³³⁴ Porter (n 24) 78.

³³⁵ As above 82.

³³⁶ OECD (n 25) 68.

³³⁷ Legarre (n 120) 770.

³³⁸ As above 775.

³³⁹ Balassa (n 37) 85.

³⁴⁰ Corder (n 119) 310.

³⁴¹ DVM Lali (n 16).

in favor of foreigners, appealing to nationalist sentiments and economic insecurity.³⁴² While not explicitly xenophobic, such arguments can shade into xenophobic attitudes toward East Africans from other Partner States, despite EAC commitments to treat all East Africans equally.³⁴³

Historical tensions within the EAC contribute to nationalistic resistance to integration. The collapse of the original East African Community in 1977, partly due to Kenyan economic dominance and political tensions among Partner States, created lasting suspicions about regional cooperation.³⁴⁴ Ugandans who remember or have heard about the original EAC's problems may view current integration efforts skeptically, fearing that history will repeat itself.³⁴⁵

Public opinion in Uganda regarding regional integration is mixed. While many Ugandans support the abstract idea of East African unity, support weakens when integration requires concrete sacrifices or perceived threats to national interests.³⁴⁶ Professional services liberalization, presented by opponents as sacrificing Ugandan jobs to foreigners, faces public skepticism that politicians are reluctant to challenge.³⁴⁷

However, nationalistic resistance to cross-border legal practice reflects misunderstandings about integration and its benefits. Regional integration does not mean Ugandans lose jobs to foreigners but rather that all East Africans gain expanded opportunities throughout the region.³⁴⁸ Ugandan lawyers benefit from ability to practice in other Partner States just as lawyers from other states can practice in Uganda.³⁴⁹ The 'jobs for Ugandans' rhetoric ignores reciprocal benefits and frames integration as zero-sum when it is positive-sum.³⁵⁰

Moreover, EAC citizenship and common market principles challenge nationalist frameworks that treat other East Africans as foreigners. The Common Market Protocol establishes that EAC citizens from all Partner States should enjoy equal rights to work and establish businesses throughout the region.³⁵¹ Treating lawyers from Kenya or Rwanda as foreigners to be excluded contradicts this fundamental principle of regional integration.³⁵²

Addressing nationalistic resistance requires public education about regional integration's benefits, political leadership championing East African unity, and concrete demonstration that integration

³⁴² As above.

³⁴³ Common Market Protocol (n 10) art 7.

³⁴⁴ Oloka-Onyango (n 118) 165.

³⁴⁵ As above 170.

³⁴⁶ Corder (n 119) 300.

³⁴⁷ As above 305.

³⁴⁸ Common Market Protocol (n 10) art 10.

³⁴⁹ As above.

³⁵⁰ Balassa (n 37) 62.

³⁵¹ Common Market Protocol (n 10) art 7.

³⁵² As above art 10.

creates opportunities rather than threats.³⁵³ As regional identity strengthens and integration delivers visible benefits, nationalist resistance should diminish, though this is a long-term process requiring sustained effort.³⁵⁴

4.8.2 Professional Identity and Cultural Differences

Professional cultures vary across EAC Partner States, reflecting different legal traditions, educational approaches, and historical development of legal professions.³⁵⁵ These cultural differences can create resistance to cross-border practice based on concerns that foreign lawyers will not understand or respect local professional norms, will undermine professional standards through different ethical approaches, or will change the character of legal practice in ways perceived as threatening.³⁵⁶

Uganda's legal profession has distinct characteristics shaped by British colonial influence, post-independence legal development, and specific local context.³⁵⁷ The profession's self-understanding emphasizes certain values, practices, and traditions that lawyers view as important to professional identity.³⁵⁸ Introduction of lawyers trained in different systems, particularly civil law systems with different professional cultures, can be perceived as threatening this identity.³⁵⁹ Concerns about ethical standards feature in professional culture arguments. Lawyers express worry that foreign lawyers may not adhere to Uganda's professional conduct rules or may engage in practices considered unethical locally.³⁶⁰ These concerns reflect both genuine commitment to maintaining high ethical standards and protectionist deployment of quality control rhetoric.³⁶¹

Trust and reputation issues compound professional culture concerns. Legal practice depends heavily on trust – between lawyers and clients, among lawyers, and between lawyers and courts.³⁶² Foreign lawyers entering Uganda's legal market lack established reputations and relationships, creating uncertainty and potential trust deficits.³⁶³ Local lawyers question whether foreign practitioners can be trusted to provide competent, ethical representation.³⁶⁴ However, professional culture differences, while real, do not justify categorical exclusion. First, all lawyers

³⁵³ Oloka-Onyango (n 118) 175.

³⁵⁴ As above 180.

³⁵⁵ Abel (n 40) 158.

³⁵⁶ As above 165.

³⁵⁷ Watuwa (n 46).

³⁵⁸ Abel (n 40) 175.

³⁵⁹ As above 182.

³⁶⁰ DVM Lali (n 16).

³⁶¹ OECD (n 25) 68.

³⁶² Paterson (n 57) 715.

³⁶³ As above 722.

³⁶⁴ DVM Lali (n 16).

admitted to practice in Uganda would be subject to Uganda's professional conduct rules and disciplinary processes, regardless of where they trained.³⁶⁵ The Law Council has authority to discipline any lawyer who violates ethical standards, providing mechanisms to address misconduct without discriminating based on origin.³⁶⁶

Second, professional culture evolves through interaction and exposure to different approaches. Cross-border practice can enrich Uganda's legal profession by introducing new ideas, practices, and perspectives, while foreign lawyers practicing in Uganda adapt to local norms and expectations.³⁶⁷ Cultural evolution through integration is desirable, not threatening, as it enables professions to learn from diverse experiences.³⁶⁸ Third, concerns about trust and reputation apply equally to domestic lawyers entering practice, yet Uganda admits new lawyers continuously. The solution is ensuring all lawyers meet minimum competency and ethical standards through admission requirements and ongoing regulation, not excluding foreign lawyers based on presumed unreliability.³⁶⁹ Professional culture concerns, while reflecting genuine attachment to professional identity and standards, should not override Uganda's legal obligations or prevent beneficial integration of legal services across the EAC.³⁷⁰

4.8.3 Limited Regional Identity and Integration

A fundamental social challenge to cross-border legal practice is the limited sense of regional identity among East Africans generally and Ugandan lawyers specifically. While the EAC promotes development of East African citizenship and regional identity, national identities remain primary for most people.³⁷¹ This limited regional identity manifests in several ways. First, East Africans primarily identify with their countries of nationality rather than with East Africa as a region.³⁷² While acknowledging historical and cultural connections across the region, most people's primary political allegiance and emotional identification is national.³⁷³ This creates weak popular support for integration measures requiring national sacrifice or perceived threats to national interests.³⁷⁴

³⁶⁵ Advocates Act, Cap 267, s 35.

³⁶⁶ As above s 40.

³⁶⁷ OECD (n 25) 72.

³⁶⁸ As above.

³⁶⁹ Paterson (n 57) 728.

³⁷⁰ OECD (n 25) 75.

³⁷¹ Corder (n 119) 295.

³⁷² As above.

³⁷³ As above.

³⁷⁴ As above 300.

Second, people-to-people integration across the EAC remains limited despite growth in recent years. While some East Africans move across borders for work, education, or business, most people live their entire lives within their countries of nationality.³⁷⁵ Limited mobility means most people have minimal direct experience of other Partner States and few personal connections across borders, weakening sense of shared regional identity.³⁷⁶ Third, legal professions specifically have limited regional integration culture. Most Ugandan lawyers practice exclusively in Uganda, have limited professional interaction with lawyers from other Partner States, and do not view themselves as part of an East African legal community.³⁷⁷ The East Africa Law Society attempts to build regional professional identity but faces limited engagement from national practitioners focused on domestic practice.³⁷⁸ Limited regional identity creates obstacles to cross-border legal practice because it undermines political and popular support for integration. When people do not identify as East Africans, they view facilitating cross-border practice as helping foreigners rather than as enabling fellow regional citizens.³⁷⁹ Lawyers who do not see themselves as part of a regional profession resist integration that threatens comfortable national markets.³⁸⁰

Building stronger regional identity requires long-term efforts including promoting intra-regional mobility and exchange programs, creating regional institutions and platforms for professional interaction, emphasizing shared historical and cultural connections, and demonstrating concrete benefits of integration that strengthen popular support.³⁸¹ Cross-border legal practice itself, if implemented, could contribute to building regional identity by creating tangible regional integration in professional services and fostering connections among lawyers across Partner States.³⁸²

4.9 Legal and Constitutional Constraints

Legal and constitutional constraints, both real and asserted, feature prominently in explanations for Uganda's failure to implement cross-border legal practice. These include arguments about supremacy of national law, separation of powers issues, and tensions between constitutional rights and regional obligations. While some constitutional considerations are genuine, others are deployed strategically to justify non-compliance with EAC commitments.

³⁷⁵ Oloka-Onyango (n 118) 170.

³⁷⁶ As above.

³⁷⁷ Watuwa (n 46).

³⁷⁸ Goldsmith (n 55).

³⁷⁹ Corder (n 119) 305.

³⁸⁰ As above.

³⁸¹ Oloka-Onyango (n 118) 175.

³⁸² Goldsmith (n 55).

4.9.1 Supremacy of National Law

Uganda's Constitution provides that the Constitution is the supreme law of Uganda and that any law inconsistent with it is void to the extent of the inconsistency.³⁸³ This constitutional supremacy provision raises questions about the relationship between domestic law and international obligations, including EAC Treaty commitments.³⁸⁴

Uganda follows a dualist approach to international law, meaning that international treaties do not automatically become part of domestic law upon ratification but require legislative incorporation.³⁸⁵ This means the EAC Treaty and Common Market Protocol, while binding on Uganda internationally, do not automatically override inconsistent domestic legislation unless Parliament has enacted legislation incorporating them into domestic law.³⁸⁶ This dualist framework creates potential for conflict between Uganda's international obligations and domestic legal frameworks. The Advocates Act contains provisions inconsistent with the Common Market Protocol, yet unless Parliament amends the Act, these inconsistent provisions remain valid as domestic law even though Uganda violates its international obligations.³⁸⁷ Courts applying domestic law would enforce the Advocates Act's restrictive provisions rather than the Common Market Protocol's liberalization requirements unless and until domestic legislation changes.³⁸⁸

However, constitutional supremacy and dualism do not excuse non-compliance with international obligations; they merely describe the mechanism by which compliance must be achieved. Uganda's ratification of the EAC Treaty and Common Market Protocol created binding international obligations regardless of whether domestic law has been amended to comply.³⁸⁹ Under international law, states cannot invoke domestic law, including constitutional law, as justification for failure to perform treaty obligations.³⁹⁰ Moreover, Uganda's Constitution itself requires respect for international law and treaty obligations. Article 287 provides that Parliament shall make laws to govern the implementation of treaty obligations and that Uganda shall comply with international legal obligations.³⁹¹ This constitutional provision mandates that

³⁸³ 1995 Constitution of Uganda, art 2.

³⁸⁴ As above.

³⁸⁵ Oloka-Onyango (n 118) 162.

³⁸⁶ As above 165.

³⁸⁷ Advocates Act, Cap 267.

³⁸⁸ Watuwa (n 46).

³⁸⁹ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 26.

³⁹⁰ As above art 27.

³⁹¹ 1995 Constitution of Uganda, art 287.

Parliament enact legislation necessary to implement the Common Market Protocol, making failure to do so a constitutional as well as international law violation.³⁹²

The East African Court of Justice has addressed supremacy of Community law in EAC jurisprudence. In cases such as *Anyang' Nyong'o v Attorney General of Kenya* and *James Katabazi v Secretary General of the East African Community*, the Court has affirmed the supremacy of EAC law over inconsistent national law, except where national constitutional provisions are at stake.³⁹³ While the Court has been cautious about directly challenging national constitutions, it has made clear that Partner States cannot simply ignore EAC obligations based on domestic legal constraints.³⁹⁴ Judicial conservatism in interpreting the relationship between domestic and international law contributes to supremacy-based resistance to implementation. Ugandan courts, applying domestic law in cases before them, have been reluctant to give direct effect to EAC law or to interpret domestic legislation broadly to align with EAC obligations.³⁹⁵ This judicial approach reinforces the need for explicit legislative amendments to achieve compliance rather than relying on courts to harmonize domestic law with regional obligations.³⁹⁶ Constitutional supremacy arguments, while describing genuine features of Uganda's legal system, ultimately do not justify non-compliance. They identify the mechanism through which compliance must be achieved – legislative amendment – but do not excuse failure to enact necessary amendments.³⁹⁷

4.9.2 Constitutional Rights Tensions

Constitutional rights arguments suggest that facilitating cross-border legal practice creates tensions between different constitutional rights that justify restrictive approaches. These tensions include the right to work versus professional regulation powers, freedom of movement versus public interest limitations, and non-discrimination principles versus legitimate restrictions.³⁹⁸ Uganda's Constitution guarantees the right to practice any lawful profession and to carry on any lawful occupation, trade, or business.³⁹⁹ This right could be invoked by EAC lawyers seeking to practice in Uganda, arguing that Uganda's restrictions violate their constitutional rights.⁴⁰⁰ However, constitutional rights are not absolute and may be limited by law to protect public

³⁹² As above.

³⁹³ Reference No 1 of 2006 *Anyang' Nyong'o and others v Attorney General of Kenya and others* (EACJ, 30 March 2007); Reference No 1 of 2007 *James Katabazi and 21 others v Secretary General of the East African Community and another* (EACJ, 1 November 2007).

³⁹⁴ As above.

³⁹⁵ Watuwa (n 46).

³⁹⁶ As above.

³⁹⁷ Vienna Convention on the Law of Treaties (n 381) art 27.

³⁹⁸ 1995 Constitution of Uganda, art 40.

³⁹⁹ As above.

⁴⁰⁰ Watuwa (n 46).

interests.⁴⁰¹ The Advocates Act's restrictions on legal practice, including requirements for admission and licensing, are justified as legitimate professional regulation protecting consumers and ensuring quality of legal services.⁴⁰² The tension arises when constitutional rights protections meet constitutional powers for professional regulation. Does the right to work require Uganda to admit lawyers from other EAC states, or do professional regulation powers permit restricting admission to protect quality and public interest?⁴⁰³ This tension is not unique to cross-border practice – it applies equally to domestic regulation balancing access to professions against quality concerns – but takes on additional dimensions in the regional integration context.⁴⁰⁴

International and comparative jurisprudence has developed frameworks for resolving such tensions through proportionality analysis.⁴⁰⁵ Restrictions on rights must be necessary to achieve legitimate objectives, suitable to achieve those objectives, and not more restrictive than necessary.⁴⁰⁶ Applying this framework, categorical exclusion of qualified lawyers from other EAC Partner States appears disproportionate, as less restrictive measures could address legitimate quality concerns while facilitating cross-border practice.⁴⁰⁷ Similarly, freedom of movement guaranteed in the Common Market Protocol and Uganda's Constitution creates potential tensions with public interest restrictions.⁴⁰⁸ The Protocol recognizes that Partner States may maintain restrictions justified by public interest considerations including public security, public policy, and public health, but such restrictions must be necessary and proportionate.⁴⁰⁹ Uganda cannot simply invoke public interest to justify any restriction; it must demonstrate genuine necessity and proportionality.⁴¹⁰

Constitutional non-discrimination provisions further complicate analysis. Uganda's Constitution prohibits discrimination based on various grounds and could be interpreted to prohibit discrimination against EAC citizens from other Partner States.⁴¹¹ However, nationality-based distinctions in professional regulation have traditionally been considered legitimate rather than prohibited discrimination, creating ambiguity about whether current restrictions violate constitutional non-discrimination principles.⁴¹² These constitutional rights tensions, while

⁴⁰¹ 1995 Constitution of Uganda, art 43.

⁴⁰² Advocates Act, Cap 267, s 2.

⁴⁰³ Watuwa (n 46).

⁴⁰⁴ Paterson (n 57) 715.

⁴⁰⁵ Case C-55/94 *Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano* [1995] ECR I-4165, para 37.

⁴⁰⁶ As above.

⁴⁰⁷ OECD (n 25) 72.

⁴⁰⁸ Common Market Protocol (n 10) art 10.

⁴⁰⁹ As above art 16.

⁴¹⁰ Case C-55/94 *Gebhard* (n 397) para 37.

⁴¹¹ 1995 Constitution of Uganda, art 21.

⁴¹² Watuwa (n 46).

presenting genuine questions requiring careful analysis, do not justify Uganda's blanket restrictions on cross-border legal practice. Proportionality analysis, properly applied, would likely conclude that Uganda's categorical approach is not necessary or proportionate to achieve legitimate regulatory objectives.⁴¹³ Alternative measures respecting both the right to work and legitimate quality concerns are available and should be implemented.⁴¹⁴

4.9.3 International Law Obligations and State Responsibility

From an international law perspective, Uganda's obligations under the EAC Treaty and Common Market Protocol are clear and binding.⁴¹⁵ The Treaty establishes Uganda's commitment to regional integration including facilitation of free movement of services.⁴¹⁶ The Common Market Protocol specifies obligations regarding professional services, including mutual recognition of qualifications and elimination of discriminatory restrictions.⁴¹⁷ These obligations create state responsibility under international law.⁴¹⁸ State responsibility doctrine establishes that violation of international obligations creates responsibility for the wrongful act and obligation to make reparation.⁴¹⁹ Uganda's failure to implement cross-border legal practice obligations constitutes a continuing breach of its EAC Treaty commitments, creating state responsibility under international law.⁴²⁰ However, enforcement mechanisms for EAC obligations remain weak. While the East African Court of Justice has jurisdiction to hear cases regarding interpretation and application of the Treaty, relatively few cases have been brought, and enforcement of Court judgments has sometimes been problematic.⁴²¹ No cases have specifically addressed cross-border legal practice, meaning Uganda's non-compliance has not yet been subject to judicial scrutiny.⁴²²

The EAC Treaty provides for various mechanisms to address non-compliance, including referral to the Summit of Heads of State, intervention by the Council of Ministers, and dispute settlement.⁴²³ However, these mechanisms depend on political will to activate them and have rarely been used to address professional services liberalization.⁴²⁴ The result is accountability

⁴¹³ Case C-55/94 *Gebhard* (n 397) para 37.

⁴¹⁴ OECD (n 25) 75.

⁴¹⁵ EAC Treaty (n 6).

⁴¹⁶ As above art 76.

⁴¹⁷ Common Market Protocol (n 10) art 10.

⁴¹⁸ Oloka-Onyango (n 118) 168.

⁴¹⁹ As above 170.

⁴²⁰ As above 172.

⁴²¹ Legarre (n 120) 760.

⁴²² As above.

⁴²³ EAC Treaty (n 6) arts 27-32.

⁴²⁴ Watuwa (n 46).

deficit where Partner States can violate obligations without facing serious consequences, undermining the Treaty's effectiveness.⁴²⁵ International law principles of good faith and *pacta sunt servanda* require that Uganda comply with its EAC obligations regardless of domestic political or legal challenges.⁴²⁶ Under the Vienna Convention on the Law of Treaties, a party may not invoke provisions of its internal law as justification for failure to perform a treaty.⁴²⁷ Uganda's domestic political difficulties, legislative inertia, or constitutional constraints do not excuse non-compliance from an international law perspective.⁴²⁸ Strengthening enforcement mechanisms and creating genuine accountability for non-compliance would enhance prospects for implementation. This might include more active use of the East African Court of Justice by affected parties, civil society monitoring and advocacy highlighting non-compliance, linkage of compliance with professional services obligations to other aspects of regional cooperation, or development of peer review mechanisms where Partner States monitor each other's implementation.⁴²⁹

4.10 Conclusion

The Uganda's failure to implement cross-border legal practice obligations stems from a complex constellation of interrelated legal, political, economic, institutional, social, and constitutional challenges. While some represent genuine difficulties requiring technical solutions, many are essentially protectionist arguments deployed to resist liberalisation in favour of narrow professional interests over broader regional integration objectives. Because these challenges are interconnected, effective implementation requires a holistic strategy combining legislative amendments, institutional capacity-building, political leadership, proportionate measures addressing legitimate quality concerns, public education, and accountability mechanisms; isolated technical reforms cannot succeed without political will, nor can political will alone overcome institutional and legal deficiencies. Progress on one dimension can accordingly facilitate progress on others, just as neglecting any one can undermine overall success. Chapter Five analyses comparative frameworks that contextualise these challenges and informs the recommendations advanced in Chapter Six.

⁴²⁵ Oloka-Onyango (n 118) 175.

⁴²⁶ Vienna Convention on the Law of Treaties (n 381) art 26.

⁴²⁷ As above art 27.

⁴²⁸ As above.

⁴²⁹ Corder (n 119) 310.

CHAPTER FIVE

COMPARATIVE ANALYSIS AND LESSONS FOR UGANDA

- 5.1 Introduction
- 5.2 Analysis of Other EAC Partner States
- 5.3 Comparative International Frameworks
- 5.4 Lessons from Comparative Analysis and Implications for Uganda
- 5.5 Conclusion

5.1 Introduction

The preceding chapters have shown that Uganda's failure to implement cross-border legal practice obligations reflects a mutually reinforcing set of legislative, institutional, political, and social obstacles. This chapter addresses the comparative dimension reserved for treatment here, drawing together two bodies of material: a systematic examination of how the other six EAC Partner States, Kenya, Tanzania, Rwanda, Burundi, South Sudan, and the DRC, regulate cross-border legal practice, providing a regional baseline against which Uganda's deficit can be assessed; and an analysis of comparable challenges addressed in the European Union, ECOWAS, and SADC. These frameworks are treated not as models for mechanical transplantation but as sources of institutional lessons informing the recommendations in Chapter Six.

5.2 Analysis of Other EAC Partner States

This section examines how the other six EAC Partner States, Kenya, Tanzania, Rwanda, Burundi, South Sudan, and the Democratic Republic of Congo, regulate legal practice and treat applications from foreign-trained lawyers, providing essential context for assessing Uganda's approach.

5.2.1 Kenya

Kenya's legal framework shares significant similarities with Uganda's, reflecting common colonial heritage and a shared common law tradition.¹ The profession is governed primarily by the Advocates Act, Cap 16, the Law Society of Kenya Act, and the Council of Legal Education Act,

¹ JWK Mugambwa, 'A comparative analysis of the transformation of East African legal systems since independence' (2007) 11 *Electronic Journal of Comparative Law* 1, 2-4.

which together establish the institutional framework for legal education, admission, professional regulation, and discipline.² These statutes create a regulatory architecture broadly comparable to Uganda's.³ The Advocates Act, Cap 16, Kenya's equivalent to Uganda's Cap 295, contains similar qualification, admission, conduct, and disciplinary provisions.⁴ As in Uganda, admission requires both academic legal education and professional training, here a post-graduate diploma from the Kenya School of Law.⁵ The Law Society of Kenya performs functions similar to the Uganda Law Society.⁶ The Council of Legal Education Act, since amended, establishes the framework for this professional training, now delivered through the Kenya School of Law.⁷ The School, like Uganda's Law Development Centre, provides the mandatory post-graduate training candidates must complete before admission.⁸ Its curriculum, focused on practical skills, procedure, and ethics, prepares graduates specifically for practice in Kenya's legal system.⁹

Kenya's admission requirements share the same restrictive character as Uganda's: educational qualifications from Kenyan or recognised foreign institutions, completion of the Kenya School of Law programme, and satisfaction of good character requirements.¹⁰ Section 10 of Kenya's Advocates Act, like Section 13 of Uganda's, creates barriers to admission for lawyers trained in other EAC Partner States.¹¹ The educational requirement specifically includes a law degree from a recognised university and the Kenya School of Law's post-graduate diploma.¹² While Kenya recognises foreign law degrees broadly, the mandatory School programme does not recognise equivalent training completed elsewhere in the EAC.¹³ A Ugandan-trained lawyer must accordingly complete the full Kenya School of Law programme to gain admission, exactly as a Kenyan-trained lawyer must complete Uganda's Law Development Centre programme.¹⁴ Pupillage, a further period of apprenticeship with an experienced advocate, is required before independent practice.¹⁵ This requirement, intended to ensure practical competence, adds further time and cost for cross-border practitioners and represents another area where regional

² Advocates Act, Cap 16 (Kenya); Law Society of Kenya Act; Council of Legal Education Act, Cap 16 (Kenya).

³ HK Sigeti, 'Implementation of the EAC Common Market Protocol in the East African Partner States: The Case of Legal Services' (2019) 13 *East African Journal of Law and Ethics* 95, 70-75.

⁴ Advocates Act, Cap 16 (Kenya).

⁵ As above, s 10.

⁶ Law Society of Kenya Act.

⁷ Council of Legal Education Act, Cap 16 (Kenya), s 3.

⁸ As above.

⁹ Sigeti (n 3) 70-75.

¹⁰ Advocates Act, Cap 16 (Kenya), s 10.

¹¹ As above.

¹² As above.

¹³ Sigeti (n 3) 70-75.

¹⁴ As above.

¹⁵ Advocates Act, Cap 16 (Kenya), s 10.

harmonisation could facilitate mobility.¹⁶ Bar examinations, administered through the Kenya School of Law, test candidates' knowledge of Kenyan law, procedure, and ethics,¹⁷ and are a prerequisite both for the diploma and for admission to the Roll of Advocates.¹⁸ Like the curriculum, the examination system is focused exclusively on Kenyan law, without accommodation for candidates trained primarily in other EAC systems.¹⁹

Kenya's treatment of EAC applicants has been similarly restrictive to Uganda's, though recent developments suggest limited movement toward greater openness.²⁰ The clearest illustration is *Samuel Gatare & 2 Others v Attorney General of Kenya*, involving Rwandan-trained lawyers challenging Kenya's refusal to admit them.²¹ Kenyan policy has historically required full compliance with domestic training without recognising equivalent training from other Partner States.²² Kenya's regulatory bodies, like Uganda's Law Council, have exercised their discretion restrictively, generally declining to treat diplomas from institutions such as Uganda's Law Development Centre or Rwanda's Institute of Legal Practice and Development as equivalent to the Kenya School of Law qualification.²³ This has effectively closed Kenya's market to practitioners trained elsewhere in the region, contributing to professional fragmentation.²⁴ In *Gatare*, three Rwandan lawyers who had completed their training in Rwanda applied for admission in Kenya.²⁵ Their applications were rejected on grounds resembling Uganda's own: the Kenya School of Law requirement and concerns about the civil law orientation of Rwandan training relative to Kenya's common law system.²⁶ The applicants challenged this rejection before the East African Court of Justice, arguing that Kenya's restrictions violated Treaty obligations.²⁷ Following the case, Kenya's profession and regulators discussed possible reform,²⁸ but no comprehensive legislative or regulatory change has followed and restrictive requirements remain largely in place,²⁹ reflecting protectionist concerns and the difficulty of building political consensus around measures that would increase competition.³⁰

¹⁶ Sigci (n 3) 70-75.

¹⁷ As above.

¹⁸ As above.

¹⁹ As above.

²⁰ *Samuel Gatare & 2 Others v Attorney General of Kenya*, EACJ Reference 6 of 2020.

²¹ As above.

²² Sigci (n 3) 95-100.

²³ As above.

²⁴ As above.

²⁵ Samuel Gatare (n 20).

²⁶ As above.

²⁷ As above.

²⁸ H Trouille & M Binda, 'Civil law, common law and the East African Community: an impossible cohabitation?' (2016) 65 *International and Comparative Law Quarterly* 95, 95-98.

²⁹ Sigci (n 3) 95-100.

³⁰ As above.

Kenya's framework presents compatibility issues with EAC obligations similar to Uganda's. Kenya has ratified the Treaty and the Common Market Protocol and expressed political commitment to integration,³¹ and participates actively in EAC institutions and policy processes.³² It has not, however, reformed its domestic legislation to implement Article 126's harmonisation and mutual recognition obligations.³³ The comparison with Uganda reveals striking similarities: both maintain mandatory domestic training that does not recognise equivalent regional qualifications,³⁴ both privilege common law training and disadvantage civil-law-trained applicants,³⁵ and both have regulatory bodies, the Law Council in Uganda and the Council for Legal Education in Kenya, that exercise discretion restrictively rather than facilitatively.³⁶ These similarities suggest the barriers to cross-border practice across the EAC are tied mainly to a lack of political will, requiring regional solutions that address the underlying political needs of Partner States.³⁷ Kenya's comparatively more progressive framework has not escaped judicial scrutiny either: in *Francis Muiruri Kimangi v The Council for Legal Education* (2019), the High Court held that the Council's imposition of additional pre-entry requirements for the bar course, beyond those its own Act contemplated, was unlawful.³⁸ *Kimangi* confirms that legislative reform of admission criteria, while necessary, is insufficient without institutional vigilance and, where needed, judicial correction, and shows that even Kenya's more liberal formal framework has not been immune to restrictive administrative practice, suggesting Uganda's difficulties are partly structural and region-wide rather than wholly its own.³⁹

5.2.2 Tanzania

Tanzania's legal profession is governed by the Advocates Act, Cap 341, the Tanganyika Law Society Act, and the Law School of Tanzania Act.⁴⁰ These statutes create an institutional framework similar to Uganda's and Kenya's, reflecting shared colonial heritage.⁴¹ The Advocates Act governs admission, conduct, and discipline;⁴² the Tanganyika Law Society Act establishes the Law Society, with functions including promoting professional interests and law reform

³¹ Treaty for the Establishment of the East African Community (adopted 30 November 1999, entered into force 7 July 2000) (2144 UNTS 255) ('EAC Treaty').

³² Sigeti (n 3) 95-100.

³³ EAC Treaty (n 31).

³⁴ Sigeti (n 3) 95-100.

³⁵ Mugambwa (n 1) 12-15.

³⁶ Sigeti (n 3) 95-100.

³⁷ As above.

³⁸ *Francis Muiruri Kimangi v The Council for Legal Education*, High Court of Kenya (Justice Weldon Korir, July 2019) 101.

³⁹ As above.

⁴⁰ Advocates Act, Cap 341 (Tanzania); Tanganyika Law Society Act; Law School of Tanzania Act.

⁴¹ Mugambwa (n 1) 2-4.

⁴² Advocates Act, Cap 341 (Tanzania).

advocacy;⁴³ and the Law School of Tanzania Act establishes the body responsible for post-graduate professional training, paralleling Uganda's Law Development Centre and Kenya's Kenya School of Law.⁴⁴ Tanzania's decades of socialist-oriented policy after independence shaped the development of its legal profession and regulatory framework,⁴⁵ and although Tanzania has since moved away from those policies, some distinctive features persist, affecting its approach to cross-border practice and regional integration.⁴⁶

Tanzania's admission requirements are more explicitly restrictive than Uganda's or Kenya's: Section 10 of the Advocates Act specifies that only Tanzanian citizens or ordinary residents may be admitted, a direct citizenship bar rather than the educational and training restrictions found elsewhere in the region.⁴⁷ This makes Tanzania's framework more explicitly nationalist and protectionist in form than Uganda's or Kenya's.⁴⁸ Educational requirements otherwise track the regional pattern: a recognised law degree and completion of professional training at the Law School of Tanzania.⁴⁹ As in Uganda and Kenya, this domestic training requirement does not recognise equivalent training from other Partner States,⁵⁰ creating similar duplicative-training burdens for EAC nationals who have already qualified at home.⁵¹ The Law School's curriculum is tailored specifically to Tanzania's procedures and substantive law,⁵² with no provision for harmonisation with, or recognition of, training completed elsewhere in the region.⁵³

Tanzania's position is distinctive because it made no Annex V commitment to liberalise legal services.⁵⁴ Where Uganda, Kenya, and Rwanda undertook specific commitments, Tanzania reserved its position.⁵⁵ This absence of commitment has reduced the immediate pressure on Tanzania to reform, and its restrictive approach has continued without significant movement toward liberalisation.⁵⁶ The citizenship requirement in Section 10, which predates the Common Market Protocol, has not been amended to reflect free movement or non-discrimination principles.⁵⁷ This reflects a cautious approach to integration and a prioritisation of domestic

⁴³ Tanganyika Law Society Act.

⁴⁴ Law School of Tanzania Act.

⁴⁵ Mugambwa (n 1) 5-8.

⁴⁶ As above.

⁴⁷ Advocates Act, Cap 341 (Tanzania), s 10.

⁴⁸ Sigci (n 3) 95-100.

⁴⁹ Advocates Act, Cap 341 (Tanzania), s 10.

⁵⁰ Sigci (n 3) 95-100.

⁵¹ As above.

⁵² As above 70-75.

⁵³ As above.

⁵⁴ Annex V to the Protocol on the Establishment of the East African Common Market, 2009.

⁵⁵ As above.

⁵⁶ Sigci (n 3) 95-100.

⁵⁷ Advocates Act, Cap 341 (Tanzania), s 10.

professional interests over regional liberalisation.⁵⁸ Barriers extend beyond the formal legal restriction to practical and administrative obstacles, including bureaucratic procedures that disproportionately burden foreign applicants unfamiliar with Tanzania's systems,⁵⁹ and the absence of clear guidance on how EAC applications will be treated, which creates uncertainty likely to deter applicants altogether.⁶⁰

Judicial clarification comes from *Mvita Construction Company v Tanzania Harbours Authority*, in which two Kenya- and Zanzibar-qualified advocates sought to appear before the Court of Appeal of Tanzania Mainland.⁶¹ The Chief Justice's temporary licence permitting their appearance was upheld, but Mrosso JA qualified this significantly: a right of audience in Zanzibar, Kenya, or Uganda confers no automatic right to practise in Tanzania Mainland, and any advocate appearing there must satisfy the Advocates Act's conditions regardless of standing elsewhere in East Africa.⁶² *Mvita* places Tanzania in the same analytical category as Uganda: cross-border practice is theoretically possible but practically controlled through discretionary gatekeeping incompatible with the Common Market Protocol's equal-treatment obligations, and the fact that Tanzania's framework has not moved beyond this discretionary model since the decision is itself evidence of continuing non-compliance.

Tanzania's protectionism exceeds Uganda's and Kenya's in degree, given its explicit citizenship requirement.⁶³ All three states maintain restrictive admission rules, but Tanzania's is more directly exclusionary of foreign nationals and reflects a more nationalist approach to professional regulation,⁶⁴ possibly reflecting concerns about retaining control over the profession amid liberalisation, protecting domestic employment, and preserving regulatory authority.⁶⁵ By comparison, Uganda's Section 13(8), while problematic, is at least framed in terms of educational qualifications rather than an explicit citizenship bar,⁶⁶ a distinction that matters because qualification-based restrictions can potentially be addressed through mutual recognition and harmonised training standards, whereas citizenship-based restrictions require outright legislative reform to eliminate.⁶⁷ Uganda's framework, while restrictive, is accordingly somewhat more amenable to reform through regional cooperation than Tanzania's explicitly nationalist

⁵⁸ Sigei (n 3) 95-100.

⁵⁹ As above.

⁶⁰ As above.

⁶¹ *Mvita Construction Company v Tanzania Harbours Authority*, Civil Appeal No 94 of 2001 (Court of Appeal of Tanzania, unreported).

⁶² As above 9 (Mrosso JA).

⁶³ Advocates Act, Cap 341 (Tanzania), s 10.

⁶⁴ Sigei (n 3) 95-100.

⁶⁵ As above.

⁶⁶ Advocates Act, Cap 295 (Uganda), s 13(8).

⁶⁷ Sigei (n 3) 95-100.

approach.⁶⁸ Because Tanzania made no Annex V commitment on legal services,⁶⁹ its obligations derive only from the Treaty's general provisions and the Common Market Protocol rather than from sector-specific commitments,⁷⁰ and this absence of specific commitment has reduced the immediate pressure for reform, allowing Tanzania to maintain its restrictive approach with comparatively little risk of challenge through regional mechanisms.⁷¹

5.2.3 Rwanda

Rwanda's framework differs significantly from its common law neighbours, reflecting its civil law heritage and the post-genocide transformation of its legal system.⁷² The Law Governing the Bar Association and regulations establishing the Institute of Legal Practice and Development are the primary governing instruments,⁷³ creating a framework adapted to civil law while increasingly engaging regional integration objectives.⁷⁴ The Law Governing the Bar Association establishes the Rwanda Bar Association as the profession's regulatory body, responsible for admission, professional standards, and discipline.⁷⁵ It plays a more central regulatory role than law societies play in Uganda, Kenya, or Tanzania, reflecting the civil law tradition of strong professional self-regulation.⁷⁶ The Institute of Legal Practice and Development provides professional training, comparable to Uganda's Law Development Centre or Kenya's Kenya School of Law,⁷⁷ though its curriculum reflects Rwanda's civil law orientation, emphasising statutory interpretation, code-based reasoning, and civil law procedure.⁷⁸ This difference creates real challenges for mutual recognition with common law states, but Rwanda has been notably progressive in seeking to bridge it.⁷⁹

Admission requires a law degree, completion of Institute training, and good character,⁸⁰ but unlike Uganda, Kenya, and Tanzania, Rwanda has made greater efforts to establish mechanisms recognising qualifications from other Partner States, reflecting a more progressive approach to

⁶⁸ As above.

⁶⁹ Annex V to the Protocol on the Establishment of the East African Common Market (n 54).

⁷⁰ Protocol on the Establishment of the East African Community Common Market (adopted 20 November 2009, entered into force 1 July 2010) ('Common Market Protocol').

⁷¹ Sigei (n 3) 95-100.

⁷² Trouille & Binda (n 28) 95-98.

⁷³ Law Governing the Bar Association (Rwanda); Institute of Legal Practice and Development Act (Rwanda).

⁷⁴ Trouille & Binda (n 28) 95-98.

⁷⁵ Law Governing the Bar Association (Rwanda).

⁷⁶ Trouille & Binda (n 28) 95-98.

⁷⁷ Institute of Legal Practice and Development Act (Rwanda).

⁷⁸ Trouille & Binda (n 28) 95-98.

⁷⁹ As above.

⁸⁰ Law Governing the Bar Association (Rwanda).

regional integration in professional services.⁸¹ This recognition has been facilitated by specific regulatory provisions and policy decisions implementing Rwanda's Annex V commitments.⁸² Rwanda committed explicitly under Annex V to facilitate cross-border practice and has taken concrete steps to implement that commitment,⁸³ including establishing equivalence-assessment procedures and creating pathways for admission of common-law-trained lawyers despite Rwanda's own civil law system.⁸⁴ This progressive stance contrasts markedly with the more restrictive approaches of Uganda, Kenya, and Tanzania, demonstrating that differences in legal tradition need not be insurmountable barriers to cross-border practice,⁸⁵ and reflects a broader policy orientation that recognises facilitating cross-border services as contributing to economic development and regional cooperation.⁸⁶

Rwanda's equal-treatment provisions are more developed than those of other Partner States,⁸⁷ including specific non-discrimination provisions and a principle that foreign qualifications should be recognised subject to appropriate equivalence assessment,⁸⁸ implementing Article 2(4) of the Common Market Protocol.⁸⁹ Practical application has been relatively successful, with documented admissions of lawyers from common law jurisdictions,⁹⁰ Rwanda's authorities showing greater willingness to assess applications on their merits and grant admission where equivalent qualifications and competence are demonstrated,⁹¹ making Rwanda a comparatively welcoming destination for cross-border practitioners.⁹² Success stories include Kenyan and Ugandan lawyers admitted to practice and established in cross-border transactional and litigation work,⁹³ demonstrating the feasibility of cross-border practice across different legal traditions and its benefits for clients, the profession, and the broader economy,⁹⁴ and providing evidence that quality and consumer-protection concerns need not require absolute exclusion of foreign-trained lawyers.⁹⁵

⁸¹ Trouille & Binda (n 28) 95-98.

⁸² As above; Annex V to the Protocol on the Establishment of the East African Common Market (n 54).

⁸³ Trouille & Binda (n 28) 95-98.

⁸⁴ As above.

⁸⁵ As above.

⁸⁶ As above.

⁸⁷ As above.

⁸⁸ Law Governing the Bar Association (Rwanda).

⁸⁹ Common Market Protocol (n 70).

⁹⁰ Trouille & Binda (n 28) 95-98.

⁹¹ As above.

⁹² As above.

⁹³ As above.

⁹⁴ As above.

⁹⁵ As above.

Rwanda's experience offers valuable lessons for Uganda.⁹⁶ These include the importance of political commitment to integration, the feasibility of bridging common law/civil law differences through appropriate mechanisms, the value of clear regulatory guidance on recognising foreign qualifications, and the economic and professional benefits of cross-border practice.⁹⁷ Transferable models include clear equivalence-assessment procedures, bridging programmes or supplementary examinations, cooperation mechanisms between regulators, and genuine implementation of non-discrimination principles in admission,⁹⁸ which could be adapted to Uganda while respecting its own institutional structures.⁹⁹ Contextual adaptation would nonetheless be necessary, given differences in institutional frameworks, legal traditions, and political contexts.¹⁰⁰ Uganda's common law system and particular institutional arrangements mean borrowed approaches would need adaptation rather than direct transplantation,¹⁰¹ though the underlying principles, commitment to integration, willingness to recognise equivalent qualifications, and clear procedures, can be applied in Uganda's context with appropriate modification.¹⁰²

5.2.4 Burundi

Burundi's framework reflects its civil law tradition and shares similarities with Rwanda's, given the two countries' shared colonial history.¹⁰³ Bar Association regulations establish the framework for admission, conduct, and discipline.¹⁰⁴ Like Rwanda, Burundi's profession operates within a civil law context differing significantly from the common law systems of Uganda, Kenya, and Tanzania,¹⁰⁵ creating cross-border challenges with common law states similar to those Rwanda has faced,¹⁰⁶ though Burundi has been less active than Rwanda in developing mechanisms to bridge these differences, partly from capacity constraints and partly from its more recent and less complete engagement with EAC integration.¹⁰⁷ Professional requirements, legal education at a recognised institution, professional training or apprenticeship, and Bar Association admission,¹⁰⁸

⁹⁶ As above.

⁹⁷ As above.

⁹⁸ As above.

⁹⁹ As above.

¹⁰⁰ As above.

¹⁰¹ As above.

¹⁰² As above.

¹⁰³ Mugambwa (n 1) 12-15.

¹⁰⁴ Bar Association regulations (Burundi).

¹⁰⁵ Mugambwa (n 1) 12-15.

¹⁰⁶ As above.

¹⁰⁷ Sigeti (n 3) 95-100.

¹⁰⁸ Bar Association regulations (Burundi).

reflect civil law traditions of regulation and serve gatekeeping functions comparable to those in common law states, despite differing in specifics.¹⁰⁹

Burundi's equal-treatment provisions for EAC nationals have been developing as the country deepens its integration.¹¹⁰ Having joined the EAC later than the original Partner States, its implementation of Common Market obligations, including those on cross-border professional practice, has been more gradual.¹¹¹ Nevertheless, Burundi has committed to free movement of services and non-discrimination, creating legal obligations to treat EAC nationals equally.¹¹² Implementation has been mixed: some progress has been made, but significant challenges remain.¹¹³ Regulatory authorities have begun considering EAC applications and developing equivalence-assessment procedures,¹¹⁴ though practical implementation has been hindered by limited administrative capacity, unclear policy guidance, and the difficulty of assessing common law qualifications against Burundi's civil law framework.¹¹⁵ Practical challenges include language, Burundi's legal system operates primarily in French while common law states operate in English, institutional capacity constraints in the Bar Association, limited resources for developing equivalence procedures, and broader economic and political challenges affecting governance generally.¹¹⁶ The result is that, despite Burundi's legal commitments, the practical reality for lawyers seeking admission remains difficult.¹¹⁷

Burundi's similarities with Rwanda reflect their shared civil law heritage and regional history,¹¹⁸ including comparable challenges bridging differences with common law states and developing mutual recognition mechanisms,¹¹⁹ though their implementation of comparable commitments has differed in pace and effectiveness.¹²⁰ The differences from common law states are nonetheless significant: the civil law emphasis on codified law, systematic reasoning, and limited reliance on precedent creates fundamental differences in legal training and professional approach.¹²¹ These differences are real and cannot be dismissed, but need not preclude cross-border practice where appropriate mechanisms ensure lawyers possess the knowledge needed to

¹⁰⁹ Mugambwa (n 1) 12-15.

¹¹⁰ Common Market Protocol (n 70).

¹¹¹ Sigei (n 3) 95-100.

¹¹² Common Market Protocol (n 70).

¹¹³ Sigei (n 3) 95-100.

¹¹⁴ As above.

¹¹⁵ As above.

¹¹⁶ As above.

¹¹⁷ As above.

¹¹⁸ Mugambwa (n 1) 12-15.

¹¹⁹ As above.

¹²⁰ Sigei (n 3) 95-100.

¹²¹ Mugambwa (n 1) 12-15.

practise effectively in different systems,¹²² and Burundi's experience, like Rwanda's, demonstrates that civil law and common law jurisdictions can coexist within a regional framework where political will exists to develop suitable accommodation mechanisms.¹²³

5.2.5 South Sudan

South Sudan's legal profession is governed by the Advocates Act (2013) and the regulations of the Sudan Bar Association.¹²⁴ As the newest EAC member at the time of accession, having joined in 2016, it brings distinctive challenges and opportunities to discussions of cross-border practice.¹²⁵ Its post-independence legal system remains under development, with much of professional regulation still at a formative stage.¹²⁶ The Sudan Bar Association plays the central regulatory role, responsible for admission, professional oversight, and ethical standards,¹²⁷ operating in a context marked by limited institutional capacity, ongoing peace-building, and the broader task of building a functional legal system in a newly independent state.¹²⁸ The post-independence framework combines elements inherited from Sudan's legal system with new developments reflecting independence and sovereignty,¹²⁹ incorporating both common law and customary law elements in a hybrid arrangement that adds further complexity to questions of legal-system compatibility within the EAC.¹³⁰ Professional regulation and legal education infrastructure remain comparatively underdeveloped, complicating implementation of EAC obligations on harmonisation and mutual recognition.¹³¹

Implementation of EAC obligations on cross-border practice has accordingly been limited, reflecting both South Sudan's recent accession and its ongoing institutional capacity challenges.¹³² Although it formally accepted the Treaty and Common Market Protocol on accession, practical implementation of specific obligations, including harmonisation of legal training and facilitation of cross-border practice, remains at an early stage.¹³³ Capacity constraints are significant and affect governance generally, including regulation of the legal profession,¹³⁴ with shortages of

¹²² Trouille & Binda (n 28) 95-98.

¹²³ As above.

¹²⁴ Advocates Act, 2013 (South Sudan); Sudan Bar Association Act.

¹²⁵ EAC, 'South Sudan' <https://www.eac.int/south-sudan> accessed 15 November 2025.

¹²⁶ Sigeti (n 3) 95-100.

¹²⁷ Sudan Bar Association Act.

¹²⁸ Sigeti (n 3) 95-100.

¹²⁹ Advocates Act, 2013 (South Sudan).

¹³⁰ E. Joireman, 'Inherited legal systems and effective rule of law: Africa and the colonial legacy' (2001) 39 *Journal of Modern African Studies* 571, 580.

¹³¹ Sigeti (n 3) 95-100.

¹³² As above.

¹³³ EAC Treaty (n 31).

¹³⁴ Sigeti (n 3) 95-100.

trained professionals, limited institutional infrastructure, resource constraints, and ongoing security challenges impeding development of robust regulatory frameworks.¹³⁵ This means that while South Sudan bears EAC obligations, its near-term capacity to implement them is constrained by practical realities on the ground.¹³⁶ The transitional justice context adds a further layer of complexity:¹³⁷ the country remains engaged in peace-building and transitional justice processes following years of conflict, with significant implications for the legal system and the role of lawyers within it.¹³⁸ Building a legal profession capable of supporting rule of law, accountability, and justice-system reform accordingly presents both challenges and opportunities for regional cooperation and the facilitation of cross-border practice.¹³⁹

5.2.6 Democratic Republic of Congo

The DRC's legal framework reflects its civil law tradition, inherited from Belgian colonial rule.¹⁴⁰ Bar regulations and the existence of multiple bar associations across different parts of the country create a complex regulatory landscape.¹⁴¹ This civil law tradition shapes all aspects of legal education, training, and practice, creating commonalities with fellow civil law members Rwanda and Burundi and differences from the EAC's common law members.¹⁴² The multiplicity of bar associations reflects the DRC's federal structure and vast geography,¹⁴³ creating coordination challenges and a less centralised regulatory landscape than in smaller Partner States,¹⁴⁴ with each association maintaining its own admission requirements, standards, and disciplinary procedures, adding further complexity to how cross-border practice would be regulated were the DRC to fully implement its EAC obligations.¹⁴⁵

Because the DRC acceded only recently, implementation of obligations on cross-border legal practice remains at a very early stage.¹⁴⁶ Having joined in 2022 as the Community's newest member, it is still in the process of aligning its domestic framework with EAC obligations across multiple sectors,¹⁴⁷ and implementation of harmonisation and mutual-recognition obligations

¹³⁵ As above.

¹³⁶ As above.

¹³⁷ As above.

¹³⁸ As above.

¹³⁹ As above.

¹⁴⁰ Mugambwa (n 1) 12-15.

¹⁴¹ Bar regulations (Democratic Republic of Congo).

¹⁴² Mugambwa (n 1) 12-15.

¹⁴³ Bar regulations (Democratic Republic of Congo).

¹⁴⁴ Sigei (n 3) 95-100.

¹⁴⁵ As above.

¹⁴⁶ EAC, 'Democratic Republic of Congo' <https://www.eac.int/drc> accessed 15 November 2025.

¹⁴⁷ As above.

specifically has not yet begun in any systematic way.¹⁴⁸ This limited progress reflects both recent accession and the broader institutional-development challenges the country faces,¹⁴⁹ its size, diversity, and complex political situation creating obstacles to implementing any regional obligation, of which professional services is only one among many areas requiring sustained effort.¹⁵⁰ Future prospects depend on continued engagement with EAC integration processes and the development of adequate institutional capacity,¹⁵¹ and the DRC's accession significantly expands the Community's geographical scope and population, creating both opportunity and challenge for professional-services integration.¹⁵² Should the DRC succeed in aligning its framework with EAC standards, its size and economic potential could make it an important market for cross-border legal services.¹⁵³

5.3 International and Regional Comparative Frameworks

Understanding how comparable challenges have been addressed in other regional integration arrangements provides important context and lessons for the EAC. The European Union, ECOWAS, and SADC have all grappled with issues analogous to those facing Uganda, professional services liberalisation, qualification recognition, legal system diversity, and political resistance to integration, with varying degrees of success, helping identify proven mechanisms, common pitfalls, and contextually appropriate approaches for the EAC.

5.3.1 European Union Model

The European Union possesses the most developed and successful framework for cross-border legal practice of any regional integration arrangement.¹⁵⁴ Its approach is particularly instructive for the EAC, both because EAC instruments explicitly draw on EU models and because the EU has successfully addressed challenges closely resembling those Uganda faces.¹⁵⁵

The legal foundation lies in the Treaty on the Functioning of the European Union, guaranteeing freedom of establishment and freedom to provide services.¹⁵⁶ These fundamental freedoms extend to legal services, giving lawyers Treaty rights to establish practices in, or provide services

¹⁴⁸ Sigei (n 3) 95-100.

¹⁴⁹ As above.

¹⁵⁰ As above.

¹⁵¹ As above.

¹⁵² As above.

¹⁵³ As above.

¹⁵⁴ C Barnard, *The substantive law of the EU: the four freedoms* (2016) 445.

¹⁵⁵ M Andenas & D Fairgrieve (eds), *Courts and comparative law* (2015) 289.

¹⁵⁶ Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C326/47, arts 49-62.

across, other member states.¹⁵⁷ This foundation parallels the EAC Treaty's own free-movement provisions, though EU provisions have been applied far more extensively and consistently.¹⁵⁸ The Lawyers' Establishment Directive, adopted in 1998, facilitates permanent practice in a member state other than that of original qualification.¹⁵⁹ A lawyer may establish practice under their home title and, after three years of regular host-state practice, seek admission to the host bar without further examination.¹⁶⁰ This balances facilitated mobility against assurance of host-law competence.¹⁶¹ The Services Directive establishes a general framework for liberalising services, including legal services, across the Union,¹⁶² requiring member states to remove unjustified barriers, accept electronic applications, and provide single points of contact for service providers.¹⁶³ Member states may retain certain requirements justified by overriding public interest, provided these are non-discriminatory, necessary, and proportionate.¹⁶⁴ The Professional Qualifications Directive establishes a comprehensive framework for recognising qualifications across the Union,¹⁶⁵ requiring recognition unless a member state can demonstrate specific, significant differences justifying compensatory measures such as adaptation periods or aptitude tests,¹⁶⁶ thereby shifting the burden of proof onto the state seeking to refuse recognition.¹⁶⁷

The European Court of Justice has developed extensive jurisprudence enforcing these freedoms. In *Reyners v Belgium*, the Court held that nationality requirements for bar admission violate freedom of establishment and cannot be justified.¹⁶⁸ In *Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano*, the Court articulated the governing proportionality test: restrictions must be non-discriminatory, justified by imperative requirements in the general interest, suitable to

¹⁵⁷ L Woods, P Watson & M Costa, *Steiner & Woods EU law* (2020) 385.

¹⁵⁸ J Lonbay, 'Assessing the European market for legal services: Development in the Free Movement of Lawyers in the European Union' (2011) 33 *Fordham International Law Journal* 1629.

¹⁵⁹ Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained [1998] OJ L77/36.

¹⁶⁰ As above art 10.

¹⁶¹ E Mak, 'The European Union's regulation of legal professions' in A Febbrajo & W Sadurski (eds), *Central and Eastern Europe after transition: towards a new socio-legal semantics* (2010) 133, 138.

¹⁶² Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L376/36.

¹⁶³ As above arts 13, 28.

¹⁶⁴ As above art 15.

¹⁶⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications [2005] OJ L255/22, as amended by Directive 2013/55/EU [2013] OJ L354/132.

¹⁶⁶ As above art 13.

¹⁶⁷ Barnard (n 154) 412.

¹⁶⁸ *Case 2/74 Reyners v Belgium* [1974] ECR 631.

achieve their objective, and no more extensive than necessary.¹⁶⁹ This test supplies a framework for balancing legitimate regulatory interests against freedom of movement.¹⁷⁰

The EU experience offers several lessons directly relevant to the EAC. Comprehensive legal frameworks supported by enforcement mechanisms can successfully facilitate cross-border practice;¹⁷¹ the combination of Treaty provisions, specific directives, and judicial enforcement created a genuinely functioning regime for lawyer mobility.¹⁷² Home- and host-country regulatory authority can be balanced through devices such as home-title practice and progressive integration into the host profession.¹⁷³ Mutual recognition can succeed even across different legal traditions where accompanied by appropriate safeguards and compensatory measures,¹⁷⁴ and strong judicial enforcement is essential to overcoming protectionist resistance.¹⁷⁵

The experience also reveals cautions. Implementation of the EU's lawyer-mobility directives took decades and required sustained political commitment.¹⁷⁶ Significant legal-system differences had to be addressed through supplementary training and integration mechanisms,¹⁷⁷ language barriers persisted even after legal barriers were removed,¹⁷⁸ and professional resistance has continued in some member states despite the comprehensive framework.¹⁷⁹ These difficulties suggest that, even with an appropriate legal framework, implementing cross-border practice in the EAC will require sustained effort over many years.¹⁸⁰

The EU model cannot be transplanted directly: the EU possesses stronger supranational institutions with greater authority to compel compliance than the EAC currently has,¹⁸¹ benefits from a longer integration history and stronger sustained political commitment,¹⁸² generally has

¹⁶⁹ Case C-55/94 *Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano* [1995] ECR I-4165, para 37.

¹⁷⁰ Woods, Watson & Costa (n 157) 392.

¹⁷¹ FG Jacobs, 'The Role of the EU Court and National Courts in Developing the EU's Internal Market: A Paradigm for Other Regional Organisations?' in F Amtenbrink, G Davies, D Kochenov & J Lindeboom (eds), *The Internal Market and the Future of European Integration: Essays in Honour of Laurence W. Gormley* (2019) 427-438.

¹⁷² Lonbay (n 158).

¹⁷³ As above.

¹⁷⁴ Mak (n 161) 145.

¹⁷⁵ S Weatherill, 'The Internal Market', in *The Internal Market as a Legal Concept* (2009) 49-94.

¹⁷⁶ J Goebel, 'Lawyers in the European Community: progress towards community-wide rights of practice' (1991) 15 *Fordham International Law Journal* 556, 587.

¹⁷⁷ Jacobs (n 171).

¹⁷⁸ EA Ontanu & E Pannebakker, 'Tackling Language Obstacles In Cross-border Litigation: The European Order For Payment And The European Small Claims Procedure Approach' (2012) 5 *Erasmus Law Review* 169.

¹⁷⁹ Lonbay (n 158).

¹⁸⁰ As above.

¹⁸¹ P Craig & G De Búrca, *EU law: text, cases, and materials* (2020) 18.

¹⁸² M Cremona, 'The European Union as an international actor: the issues of flexibility and linkage' (1998) 3 *European Foreign Affairs Review* 553, 560.

more developed legal systems and rule-of-law traditions,¹⁸³ and its deeper economic integration generates stronger demand for cross-border legal services than currently exists within the EAC.¹⁸⁴ Nevertheless, the EU experience provides valuable guidance on institutional mechanisms, legal frameworks, and implementation strategy that the EAC can adapt to its own context.¹⁸⁵

5.3.2 ECOWAS Framework

The Economic Community of West African States offers a useful comparison as another African regional arrangement that has addressed cross-border professional practice.¹⁸⁶ Its fifteen member states span common law, civil law, and mixed systems, a diversity comparable to the EAC's.¹⁸⁷ The Revised ECOWAS Treaty of 1993 establishes freedom of movement of persons, goods, services, and capital,¹⁸⁸ with Article 59 specifically addressing movement of professionals and requiring measures to achieve freedom of movement and establishment for service providers.¹⁸⁹ This provision parallels the EAC Treaty's own free-movement provisions and supplies the legal foundation for cross-border professional practice in ECOWAS.¹⁹⁰ The 1979 Protocol on Free Movement of Persons, Residence, and Establishment grants ECOWAS citizens rights to enter, reside, and establish businesses in other member states,¹⁹¹ with supplementary protocols adopted in 1985 and 1986 elaborating the rights of residence and establishment respectively.¹⁹²

For legal practitioners specifically, the West African Association of Law Schools works to promote common standards in legal education across member states,¹⁹³ and some states have entered bilateral agreements recognising each other's qualifications, though no comprehensive

¹⁸³ L. Pech & S. Platon, 'Rule of Law backsliding in the EU: The Court of Justice to the rescue? Some thoughts on the ECJ ruling in Associação Sindical dos Juizes Portugueses' (2018) 24 *European Law Journal* 777, 780.

¹⁸⁴ K. Lenaerts, 'The Rule of Law and the Coherence of the Judicial System of the European Union' (2007) 44 *Common Market Law Review* 1625.

¹⁸⁵ Barnard (n 154) 470.

¹⁸⁶ AO Enabulele, 'Supranationality of ECOWAS and the Community Legal Order: Examining Obligations and Consequences of Non-Compliance thereof' paper delivered at the International Conference organized by the ECOWAS Court of Justice, Accra, Ghana, 21-24 October 2019.

¹⁸⁷ As above.

¹⁸⁸ Revised Treaty of the Economic Community of West African States (adopted 24 July 1993, entered into force 23 August 1995) 35 ILM 660.

¹⁸⁹ As above art 59.

¹⁹⁰ Enabulele (n 186).

¹⁹¹ Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment (adopted 29 May 1979).

¹⁹² Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, Right of Residence and Establishment (adopted 6 July 1985); Supplementary Protocol A/SP.2/5/90 on the Implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment (adopted 29 May 1990).

¹⁹³ PS Masumbe, 'Harmonising the Legal Frameworks of SADC, EAC and ECOWAS Through Regional Integration Under the Abuja Treaty: An Analysis of the Similarities, Differences and Challenges' (2025) 14 *Perspectives of Law and Public Administration* 510-526.

ECOWAS-wide framework for legal services has been adopted.¹⁹⁴ Implementation has faced challenges resembling the EAC's: member states maintain restrictions based on nationality and place of qualification,¹⁹⁵ language barriers between Anglophone and Francophone states create practical obstacles,¹⁹⁶ differing legal systems inherited from colonial powers complicate harmonisation,¹⁹⁷ professional associations in some states resist liberalisation over competition concerns,¹⁹⁸ and political commitment to implementing free-movement provisions varies considerably.¹⁹⁹

Despite these challenges, ECOWAS has achieved real progress on general freedom of movement: its Protocol has been more successfully implemented than the EAC's Common Market Protocol in eliminating visa requirements and facilitating physical movement.²⁰⁰ ECOWAS citizens may enter other member states without a visa for up to ninety days, and residence-permit procedures have been simplified.²⁰¹ This demonstrates that African regional organisations can successfully implement free-movement principles where political will exists.²⁰² Progress on professional services liberalisation specifically, however, including legal services, remains limited, with the gap between general free movement and sector-specific implementation persisting much as it does in the EAC.²⁰³ This suggests that facilitating cross-border professional practice requires sector-specific frameworks addressing qualification recognition, regulatory harmonisation, and professional standards, not general free-movement principles alone.²⁰⁴

The ECOWAS experience offers several lessons. Progress on general freedom of movement does not automatically translate into progress on professional services liberalisation, which requires dedicated, tailored mechanisms.²⁰⁵ Bilateral agreements between willing states can build momentum for regional frameworks even where not all member states are equally committed.²⁰⁶

¹⁹⁴ S Ibok & A Atayero, 'ECOWAS and the Challenges to Regional Integration' in S Folarin, E Akinlabi & A Atayero (eds), *The United Nations and Sustainable Development Goals* (2022).

¹⁹⁵ T Yeboah and others, 'The ECOWAS Free Movement Protocol and Diversity of Experiences of Different Categories of Migrants: A Qualitative Study' (2021) 59 *International Migration* 228-244.

¹⁹⁶ A Adepoju, A Boulton & M Levin, 'Promoting integration through mobility: free movement under ECOWAS' (2010) 46 *Refugee Survey Quarterly* 27, 41.

¹⁹⁷ Enabulele (n 186).

¹⁹⁸ As above.

¹⁹⁹ Ibok & Atayero (n 194).

²⁰⁰ K Aning & J Atuobi, 'Responsibility to protect in Africa: an analysis of the African Union's peace and security architecture' (2009) 5 *Global Responsibility to Protect* 90, 105.

²⁰¹ A Adepoju, F van Noorloos & A Zoomers, 'Europe's migration agreements with migrant-sending countries in the Global South: a critical review' (2010) 48 *International Migration* 42, 58.

²⁰² Yeboah and others (n 195).

²⁰³ Adepoju, Boulton & Levin (n 196) 52.

²⁰⁴ Enabulele (n 186).

²⁰⁵ Ibok & Atayero (n 194).

²⁰⁶ Adepoju, van Noorloos & Zoomers (n 201) 62.

Regional professional associations and educational institutions can play valuable roles in promoting harmonisation and building capacity.²⁰⁷ Finally, sustained implementation efforts over decades, not years, are necessary to achieve meaningful liberalisation.²⁰⁸

Nigeria's experience within ECOWAS offers instructive context for Uganda's own position. Nigeria's Legal Practitioners Act confines legal practice to persons enrolled on its Roll of Legal Practitioners, a position the Supreme Court affirmed in *Okafor v Nweke*, holding enrolment a mandatory prerequisite regardless of a practitioner's standing in any other jurisdiction.²⁰⁹ This was reinforced in proceedings concerning *Shell Nigeria E&P Ltd*, where an arbitral tribunal held that originating process signed by a foreign law firm whose members were not enrolled under the Act was a nullity, invalidating proceedings founded on it.²¹⁰ The contrasting position in *Stabilini Visinoni Ltd v Mallinson & Partners Ltd*, where a different Court of Appeal panel held that arbitration is not confined exclusively to enrolled practitioners, illustrates the unsettled state of Nigerian law on this question and the practical risks cross-border practitioners face even within a functioning regional integration framework.²¹¹ The Nigerian jurisprudence is directly relevant to Uganda because it shows that common law African states have consistently adopted restrictive interpretations of admission requirements despite regional integration commitments; that even Nigeria, ECOWAS's most economically powerful member and the state whose market would arguably be most disrupted by liberalisation, maintains strict enrolment requirements reinforces the protectionist analysis advanced in Chapter Four and suggests Uganda's barriers reflect a wider pattern of professional entrenchment across common law African states that regional integration has not yet overcome.

5.3.3 SADC Framework

The Southern African Development Community offers a further relevant comparison.²¹² Its sixteen member states display significant diversity in legal systems, development levels, and political systems.²¹³ The SADC Treaty, adopted in 1992, establishes objectives including

²⁰⁷ Masumbe (n 193).

²⁰⁸ Enabulele (n 186).

²⁰⁹ *Okafor v Nweke* [2007] 10 NWLR (Part 1043).

²¹⁰ *Shell Nigeria E & P Ltd & 3 Others v. Federal Inland Revenue Service* (Unrep. Appeal CA/A/208/2012).

²¹¹ *Stabilini Visinoni Ltd v Mallinson & Partners Ltd* [2014] 12 NWLR (Part 1420) 134 (Court of Appeal, Lagos Division).

²¹² R Qualmann, 'Promoting Regional Integration in the Southern African Development Community (SADC) – Current Approaches and Future Prospects' (2000) German Development Institute Briefing Paper (6/2000).

²¹³ LN Murungi & J Gallinetti, 'The Role of Sub-Regional Courts in the African Human Rights System' (2010) 13 SUR 1.

harmonisation of policy and free movement of capital, labour, goods, and services,²¹⁴ with Article 5 specifically committing member states to achieving free movement of people, goods, services, and capital as a means of regional integration.²¹⁵ These provisions parallel the EAC Treaty's own free-movement commitments.²¹⁶

The SADC Protocol on Trade in Services, adopted in 2012, establishes a framework for progressive liberalisation of services trade,²¹⁷ following the GATS model of member-state schedules of commitments indicating which sectors will be liberalised and which restrictions retained.²¹⁸ Member states' schedules on legal services vary significantly, some committing to substantial liberalisation, others maintaining extensive restrictions.²¹⁹ SADC has also established a Qualification Framework to facilitate recognition of qualifications across the region,²²⁰ providing mechanisms for assessing equivalency and recognising foreign qualifications.²²¹ Implementation remains incomplete, but the framework supplies institutional infrastructure that could, in principle, facilitate professional mobility including for lawyers.²²²

Implementation of cross-border legal practice within SADC has nonetheless been limited and uneven. South Africa, in particular, has maintained a restrictive approach that effectively excludes practitioners from other member states.²²³ Language barriers between Anglophone and Lusophone states create further practical difficulties,²²⁴ and sharply differing levels of legal-system development, from highly developed systems in South Africa and Botswana to far less developed systems elsewhere, complicate harmonisation efforts.²²⁵ Some progress has nonetheless come through bilateral arrangements: lawyers from Lesotho may practise in South Africa under specific conditions, and a degree of mutual recognition exists between Botswana,

²¹⁴ Treaty of the Southern African Development Community (adopted 17 August 1992, entered into force 30 September 1993).

²¹⁵ As above art 5.

²¹⁶ Qualmann (n 212).

²¹⁷ SADC Protocol on Trade in Services (adopted August 2012).

²¹⁸ M Ngubula, 'The SADC Protocol On Trade In Services: A Review Of The Protocol In Light Of The GATS And Other SADC Protocols And What It Means For Trade In Services In The Region' LLM thesis, University of Cape Town, 2013 (on file with author).

²¹⁹ As above.

²²⁰ SADC Qualification Framework (adopted 2005).

²²¹ J Keevy, 'The SADC Qualifications Framework as a mechanism to improve the comparability of TVET qualifications in the SADC region' paper presented at the 4th Annual Technical and Vocational Education and Training (TVET) Conference and Exhibition in SADC, 7-10 November 2006.

²²² As above.

²²³ Ngubula (n 218).

²²⁴ Murungi & Gallinetti (n 213).

²²⁵ Qualmann (n 212).

Zimbabwe, and Zambia.²²⁶ These bilateral achievements suggest that full regional liberalisation may be preceded by sub-regional cooperation among willing states.²²⁷

The SADC experience shows both similarities to and differences from the EAC. Like the EAC, SADC confronts diverse legal systems, varying development levels, language barriers, and professional resistance to liberalisation.²²⁸ Unlike the EAC, however, SADC has not developed a comprehensive framework specifically addressing legal services, relying instead on general services liberalisation and bilateral arrangements,²²⁹ an approach that has produced slower, more fragmented progress than sector-specific instruments, such as the EAC's own proposed Cross-Border Legal Practice Bill, might achieve.²³⁰ The key lessons for the EAC are the importance of sector-specific attention to professional services rather than reliance on general liberalisation frameworks alone, the potential value of qualification frameworks in facilitating mutual recognition, the role bilateral cooperation among willing states can play in building toward regional frameworks, and the persistence of professional protectionism and sovereignty concerns even within relatively advanced regional integration arrangements.²³¹

5.4 Lessons from Comparative Analysis and Implications for Uganda

The comparative analysis in this chapter, drawn both from fellow EAC Partner States and from other regional integration arrangements, yields several convergent lessons that are directly applicable to Uganda's reform agenda.

5.4.1 Progressive Liberalisation is Both Possible and Effective

Rwanda's experience within the EAC demonstrates that a Partner State can move from a restrictive professional market to a substantially open framework within a relatively short period through deliberate legislative and institutional reform. Rwanda's amendment of its organic law to extend equal treatment to EAC nationals, combined with institutional reforms at the ILPD and the Bar Association, shows that the political and technical obstacles to compliance are surmountable.²³² The EU experience similarly demonstrates that substantial integration of legal services across diverse legal systems – including both common law (Ireland, the United

²²⁶ Ngubula (n 218).

²²⁷ Kevvy (n 221).

²²⁸ Qualmann (n 212).

²²⁹ Murungi & Gallinetti (n 213).

²³⁰ Ngubula (n 218).

²³¹ Qualmann (n 212).

²³² Sigei (n 3) 95-100.

Kingdom) and numerous civil law jurisdictions – is achievable through appropriate directive frameworks and judicial enforcement of Treaty freedoms.²³³

5.4.2 Recognition Mechanisms Can Be Designed to Protect Quality

A persistent concern in Uganda's professional community is that liberalisation necessarily entails compromising professional standards. The comparative evidence refutes this. The EU's Lawyers' Establishment Directive deliberately allows for a three-year adaptation period before full equivalence is conceded, and member states may require aptitude tests or supervised practice for specific practice areas.²³⁴ Kenya's framework, while itself not fully compliant with EAC obligations, demonstrates the use of specific subject-matter examinations and professional practice assessments as intermediate mechanisms. These models indicate that mutual recognition and quality assurance are not mutually exclusive objectives; proportionate assessment mechanisms can address both simultaneously.

5.4.3 Institutional Frameworks Must Accompany Legislative Reform

Tanzania's partial compliance illustrates the gap that can emerge between formal legal frameworks and practical implementation when institutional capacity and regulatory coordination are inadequate. The SADC experience further demonstrates that establishing common standards frameworks without effective institutional follow-through produces limited real-world integration.²³⁵ For Uganda, this means that amendments to the Advocates Act, while necessary, are insufficient without corresponding institutional reforms – including the development of clear assessment procedures within the Law Council, cooperation agreements with counterpart regulatory bodies in other Partner States, and inter-ministerial coordination mechanisms.

5.4.4 Political Will and Enforcement are Critical

The comparative record consistently shows that legal frameworks and institutional mechanisms for cross-border practice remain dormant without political will to activate them and enforcement mechanisms to sustain compliance. The EU's success in integration of legal services owes substantially to the Court of Justice's willingness to enforce Treaty freedoms against member states and to develop the proportionality doctrine as a tool for invalidating disproportionate

²³³ P Craig & G De Búrca, *EU law: text, cases, and materials* (2020) 18.

²³⁴ E Mak, 'The European Union's regulation of legal professions' in A Febbrajo & W Sadurski (eds), *Central and Eastern Europe after transition: towards a new socio-legal semantics* (2010) 133, 138.

²³⁵ Keavy (n 221).

national restrictions. ECOWAS, by contrast, has achieved more limited integration partly because of weaker enforcement machinery and insufficient political commitment at the national level.²³⁶ The EAC's enforcement mechanisms through the EACJ remain underutilised for professional services matters, and Uganda has faced no meaningful accountability for its prolonged non-compliance. Strengthening the accountability dimension of regional integration – both through more active use of the EACJ and through civil society monitoring – is a precondition for sustainable reform.

5.4.5 Common Law–Civil Law Diversity is Not an Insurmountable Barrier

The *Bataamwe* case and Uganda's treatment of Rwandan-trained lawyers have rested partly on the assumption that civil law training is inherently incompatible with practice in a common law system. The comparative analysis challenges this assumption fundamentally. Rwanda itself has successfully accommodated lawyers trained in both civil law and common law traditions as its legal system underwent transformation.²³⁷ The EU has sustained cross-border practice across its entire range of legal traditions for decades, using aptitude mechanisms rather than exclusion as the appropriate response to genuine knowledge gaps.²³⁸ The ECOWAS region, which faces an even more pronounced Anglophone-Francophone divide than the EAC, has developed bridging frameworks that recognise professional competence across language and legal system boundaries.²³⁹ Uganda's categorical exclusion of civil law-trained lawyers from other EAC Partner States is not supported by the comparative evidence and is inconsistent with the proportionality standard required by the Common Market Protocol.

5.5 Conclusion

This chapter has assembled the comparative foundations for evaluating Uganda's compliance deficit. The Partner State analysis reveals uneven regional implementation, with Rwanda the clearest model of compliance, Kenya and Tanzania showing partial compliance with specific gaps, and the remaining states, including Uganda, yet to translate their commitments into practice. The international frameworks analysis confirms that the EAC's challenges are neither novel nor intractable, since the EU, ECOWAS, and SADC have confronted analogous obstacles with varying success. The key lessons are that progressive liberalisation through proportionate recognition is feasible and consistent with quality assurance; that legislative reform requires

²³⁶ Enabulele (n 186).

²³⁷ Sigei (n 3) 95-100.

²³⁸ See Case 2/74 *Reyners v Belgium* [1974] ECR 631.

²³⁹ Enabulele (n 186).

accompanying institutional capacity-building; that political will and enforcement are indispensable; and that the common law–civil law divide does not justify categorical exclusion but can be addressed through appropriately designed bridging mechanisms. These lessons inform Chapter Six's recommendations.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction
6.2 Conclusions
6.3 Recommendations
6.4 Areas for Further Research

6.1 Introduction

This research has examined Uganda's implementation of its EAC Treaty obligations on cross-border legal practice through analysis of the international legal framework, domestic legislative compatibility, implementation challenges, and comparative experience from other regional integration arrangements. Despite obligations undertaken more than a decade ago under the Treaty and the Common Market Protocol, Uganda has failed to harmonise its domestic framework to permit cross-border legal practice, a failure that stands in stark contrast to Rwanda's progressive reform of its own framework. The restrictive approach is not mandated by insurmountable constitutional, legal, or practical obstacles; it reflects policy choices that prioritise protectionism over integration commitments. The barriers identified throughout this study are primarily political and institutional rather than legal or technical, as the experiences of the European Union, ECOWAS, and Uganda's own EAC neighbours demonstrate that liberalisation can be achieved without compromising professional standards. This final chapter presents conclusions on each research objective, recommendations for bringing Uganda into compliance, and areas warranting further research.

6.2 Conclusions

This section sets out the principal conclusions reached against each research objective.

6.2.1 International legal framework on cross-border legal practice

Uganda's obligations derive primarily from the EAC Treaty and the Common Market Protocol, both creating binding commitments to harmonise professional qualifications and facilitate free movement of workers, including legal practitioners. Article 104 of the Treaty requires Partner

States to harmonise curricula and examination standards in professional training, while Article 10 of the Protocol mandates non-discriminatory free movement of workers, reinforced by the Free Movement of Workers Regulations' detailed implementation mechanisms for cross-border qualification recognition. This framework is comprehensive, non-discretionary, and legally binding rather than aspirational, creating enforceable rights for individuals and corresponding duties for Partner States, including Uganda.

6.2.2 Compatibility of Uganda's Domestic Legal Framework with Its EAC Treaty Obligations

Uganda's current legal regime is fundamentally incompatible with its regional integration commitments. The Advocates Act remains rooted in a pre-integration era, treating citizenship as an absolute prerequisite for admission and making no provision for recognising qualifications obtained elsewhere in the EAC, while the Law Council has interpreted its mandate to prioritise restrictive gatekeeping over treaty compliance. This contrasts sharply with Rwanda's progressive framework permitting EAC nationals to practise on meeting specified competency requirements, and with Kenya's more nuanced pathways for foreign-qualified lawyers in specific practice areas. Although the Constitution establishes EAC Treaty obligations as superior to ordinary legislation, this has not been invoked to compel reform. Uganda's failure to amend the Advocates Act or enact implementing legislation for the Protocol constitutes a clear breach of its international obligations, placing it at the most restrictive end of the EAC spectrum.

6.2.3 Challenges and hindrances affecting Uganda's compliance with cross-border legal practice obligations

Implementation barriers are multifaceted, spanning political, economic, social, legal, and institutional dimensions. Political resistance stems from protectionist sentiment within the profession, which views liberalisation as a threat to domestic practitioners rather than an opportunity for regional market expansion. Economic concerns about competition persist despite evidence elsewhere that liberalisation tends to expand markets rather than merely redistribute existing work, while social and cultural resistance reflects professional identity concerns within conservative institutions. Legal and constitutional obstacles, though frequently cited, are largely surmountable through straightforward amendment, as Rwanda's reform demonstrates. Institutional barriers prove most significant: the Law Council lacks both the political will and the capacity to drive harmonisation, and the absence of effective EAC-level monitoring and enforcement has allowed Uganda to maintain non-compliance without consequence. Comparison with the European Union and ECOWAS shows these challenges are

common to regional integration generally but can be overcome through sustained political commitment, phased implementation, and institutional capacity building.

6.2.4 A Comparative analysis of other regional integration frameworks

This study drew a regional baseline from fellow EAC Partner States and a broader comparative survey of the European Union, ECOWAS, and SADC. The Partner State survey revealed a spectrum running from Rwanda's substantially complete legislative and institutional reform, amending its organic law, restructuring the Institute of Legal Practice and Development, and formally extending equal treatment to EAC nationals, to Tanzania's position of having made no Annex V commitment at all, to Kenya's partial compliance characterised by formal restrictions broadly mirroring Uganda's own. The most significant conclusion is that Uganda's restrictiveness, though shared by several Partner States, is not a structural inevitability: Rwanda demonstrates that a comparable jurisdiction operating under the same Treaty framework and facing analogous market concerns can achieve meaningful compliance through political will alone.

The international comparison reinforces this. The EU experience shows that integrating legal services across genuinely diverse legal systems, common law, civil law, and mixed jurisdictions, is achievable through proportionate recognition mechanisms and judicial enforcement, and that the common law/civil law divide within the EAC, while real, does not justify categorical exclusion. ECOWAS and SADC serve as cautionary illustrations instead: where enforcement is weak and political commitment insufficient, liberalisation commitments remain aspirational rather than operative, a fate the EAC risks replicating if Uganda's accountability deficit goes unaddressed. The convergent lesson is that sustainable integration requires not legislative amendment alone but a coordinated package of institutional reform, regulatory capacity-building, and enforceable accountability, precisely what has been missing from Uganda's approach.

6.3 Recommendations

Building on these conclusions, this section sets out concrete recommendations for Uganda's legislature, regulatory bodies, executive institutions, and regional partners, charting a practicable path toward full compliance with Uganda's EAC Treaty obligations.

6.3.1 Legislative reform of the Advocates Act

The most urgent priority is comprehensive amendment of the Advocates Act to align with EAC Treaty and Common Market Protocol requirements: removing citizenship as an absolute

prerequisite for admission and creating explicit pathways for EAC nationals qualified in other Partner States to practise in Uganda. The amendment should establish clear recognition criteria, demonstrated competence in Ugandan law, adherence to professional conduct standards, and Law Council registration, drawing on Rwanda's model of competency assessment rather than blanket exclusion. The process should involve genuine stakeholder consultation with the profession, civil society, and regional integration experts, and Parliament should treat this as a priority measure necessary to fulfil Uganda's international obligations and credibility as an EAC Partner State.

6.3.2 Regulatory Modernisation of the Law Council

Legislative reform must be accompanied by regulatory modernisation within the Law Council, which should develop clear, transparent procedures for evaluating qualifications from other Partner States, including criteria for assessing substantial equivalence of legal education and training. These procedures should use competency-based assessment of candidates' understanding of Ugandan law, procedure, and ethics, without imposing burdens that would effectively nullify the right to practise. The Council should build dedicated administrative capacity, including personnel familiar with comparative qualification frameworks across the EAC, and issue guidelines specifying processing timelines, fees, appeal mechanisms, and transitional arrangements for practitioners already operating informally. The Council must shift from passive gatekeeper to active facilitator of regional integration while maintaining its core mandate on professional standards.

6.3.3 Fast Tracking of the EAC cross-border legal practice bill

Uganda should support fast-tracking, enacting, and implementing the Draft Bill on Cross-Border Legal Practice, which already provides a ready-made regional framework for harmonising practice across Partner States. Doing so would demonstrate Uganda's commitment to integration and ensure reciprocity across the Community. Implementation should align domestic legislation with the Bill's proposed categories, cross-border legal practice, foreign legal practice, and integrated practice, and Uganda should participate actively in regional forums to finalise and strengthen the instrument, contributing its own experience of implementation challenges. The Bill's provisions on continuing professional development, client protection, and discipline also offer frameworks that could usefully enhance Uganda's domestic regulatory system independent of cross-border practice.

6.3.4 Institutional capacity building

Institutional capacity building within the Law Council is a critical dimension of successful implementation. The Council needs enhanced technical expertise in comparative legal systems, qualification recognition, and regional integration frameworks, developed through training for members and staff on EAC instruments and competency assessment techniques, and through partnerships with regulatory bodies in other Partner States to share experience and develop mutual recognition agreements. Investment in technological infrastructure would enable efficient application processing, maintenance of practitioner databases, and regional coordination, while strengthened research and policy capacity would support evidence-based decision-making and more proactive engagement with regional harmonisation efforts.

6.3.5 Policy reorientation towards strategic regional engagement

Policy reorientation is needed to shift Uganda's approach from protectionism toward strategic engagement, recognising that liberalisation offers Ugandan practitioners access to regional markets rather than merely threatening domestic employment. This requires leadership from the Attorney General's Chambers, the Ministry of Justice and Constitutional Affairs, and the Ministry of East African Community Affairs to articulate a coherent national position, informed by economic analysis of the legal services market and Uganda's own competitive advantages, and by a strategy for positioning Uganda as a regional legal services hub. The policy framework should also address transitional support for domestic practitioners, including continuing professional development in regional and international law, business development skills, and practice management.

6.3.6 Constitutional clarification and strategic litigation

Constitutional clarification of the supremacy of EAC Treaty obligations over inconsistent domestic legislation would provide legal certainty and compel reform. Article 123 of the Constitution already provides for treaty supremacy, but this has not been invoked to challenge the Advocates Act's incompatibility with EAC obligations. Strategic constitutional litigation, brought by civil society organisations, affected practitioners, or public interest law bodies, could compel judicial clarification of the relationship between treaty obligations and domestic legislation and potentially invalidate the Act's restrictive provisions. A constitutional court pronouncement would create binding precedent and political pressure for legislative reform, and this legal strategy should be complemented by advocacy raising public awareness of Uganda's treaty obligations and the benefits of liberalisation.

6.3.7 Phased implementation

Phased implementation would address concerns about sudden market disruption while progressively achieving compliance. Uganda could adopt a transitional framework initially permitting EAC practitioners in specific areas, such as international commercial law, arbitration, or EAC law, before expanding to full practice rights, an approach successfully employed in other regional integration contexts that allows domestic practitioners time to build competitiveness while demonstrating that liberalisation does not produce the consequences protectionists fear. Phasing could include initial caps on foreign practitioner numbers, sunset provisions gradually expanding rights, or temporary requirements such as partnership with local firms, each phase having clear timelines, objective criteria for progression, and monitoring mechanisms. The ultimate goal must remain full compliance, with phasing serving as a politically palatable pathway rather than indefinite postponement.

6.3.8 Regional cooperation and coordination

Regional cooperation and coordination with other Partner States would strengthen implementation and ensure reciprocity of practice rights. Uganda should engage actively in the EAC Sectoral Council on Legal and Judicial Affairs, pursue bilateral mutual recognition arrangements with individual Partner States while broader regional consensus develops, and draw on Rwanda's reform experience through technical cooperation arrangements. Coordination should extend to harmonising legal education standards, bar examination content, continuing professional development requirements, and conduct rules, while joint initiatives, such as regional legal practice licences, cross-border professional indemnity insurance, and coordinated client protection mechanisms, would support practical implementation.

6.3.9 Monitoring and enforcement mechanisms

Monitoring and enforcement mechanisms at both national and regional levels are necessary to sustain compliance. Uganda should establish clear implementation timelines with specific milestones for legislative reform, regulatory development, and capacity building, while the EAC Secretariat should strengthen its monitoring of Partner States' compliance, including regular reporting and consequences for persistent non-compliance. The East African Court of Justice should be empowered and resourced to adjudicate cross-border practice disputes, with individuals and professional associations granted direct access to challenge violations, and civil society monitoring, through bar associations, legal aid organisations, and academic institutions,

would add further accountability. Regular review should assess liberalisation's impact on access to justice, professional standards, market competition, and integration objectives.

6.3.10 Professional development and competitiveness enhancement

Professional development and competitiveness enhancement for Ugandan practitioners should accompany liberalisation to maximise its benefits and minimise adjustment costs. The Law Council, Law Development Centre, and professional associations should collaborate on training in regional and international law and cross-border transaction management, supported by regional law firm networks, partnerships with practitioners elsewhere in the Community, and participation in regional legal markets. Investment in legal technology, practice management, and business development skills would enhance Ugandan practitioners' competitiveness against foreign counterparts, and mentorship pairing experienced practitioners with those entering regional practice would build capacity and confidence. This proactive approach turns liberalisation from a threat to be resisted into an opportunity for professional and economic advancement.

6.4 Areas for further research

While this study provides a comprehensive doctrinal analysis of Uganda's compliance deficit and a framework for reform, it necessarily leaves open questions beyond its scope. The following areas are identified as priorities for future research.

6.4.1 Impact of liberalisation on access to justice

The impact of legal services liberalisation on access to justice in Uganda merits empirical investigation: whether increased competition and diversity in the profession enhances or constrains access for marginalised populations, and whether foreign practitioners concentrate in high-value commercial work or expand provision to underserved communities and practice areas. Comparative analysis of access-to-justice indicators before and after liberalisation in other Partner States and regional arrangements would provide evidence, particularly on how liberalisation interacts with legal aid, pro bono obligations, rural access, and affordability. Such research would help ensure that regional integration in legal services advances social justice alongside economic efficiency.

6.4.2 Economic impact on Uganda's legal services market

The economic impact of cross-border legal practice on Uganda's market requires rigorous analysis to move beyond the speculative assertions that have dominated policy debate: market size, growth, competitive dynamics, pricing, and employment effects in jurisdictions that have liberalised, and whether liberalisation expands demand or merely redistributes existing market share. Analysis of foreign direct investment flows, cross-border transactions, and regional business development would illuminate the link to broader economic integration, while study of practitioner income, firm structures, and specialisation patterns would reveal distributional effects across the profession. This evidence base would ground policy in economic reality rather than protectionist fear.

6.4.3 Legal education harmonisation and professional mobility

The relationship between legal education harmonisation and professional mobility deserves sustained attention: how curricula, teaching methods, assessment standards, and competency frameworks converge or diverge across EAC law schools and training institutions. The Law Development Centre's role in qualification processes, and its potential for coordination with equivalent institutions elsewhere in the Community, merits particular study, alongside analysis of bar examination content, training requirements, and continuing development systems for opportunities for mutual recognition. Examining quality assurance, accreditation, and regulatory oversight would address concerns about maintaining standards while facilitating mobility, providing practical pathways for harmonisation that respect diversity while enabling effective recognition.

6.4.4 Judicial enforcement by the East African Court of Justice

The effectiveness of the East African Court of Justice in enforcing professional-mobility obligations requires critical examination of its jurisprudence on Common Market Protocol provisions, free movement, and non-discrimination, and of the patterns of interpretation and enforcement that have emerged. Research into the access barriers facing individuals seeking to vindicate treaty-based rights, procedural requirements, cost, and awareness, would reveal whether judicial enforcement functions as an effective compliance mechanism, while comparison with other regional courts such as the European Court of Justice and the ECOWAS Court would illuminate best practice. Study of the political economy of compliance, why some Partner States implement judgments while others resist, would inform strategies for strengthening judicial enforcement as a driver of integration.

6.4.5 Gendered dimensions of legal services liberalisation

The gendered dimensions of legal services liberalisation warrant focused investigation: whether cross-border practice rights enable women lawyers to overcome domestic barriers to advancement, or whether liberalisation instead reinforces existing gender hierarchies within the profession. Analysis of women's representation among mobile practitioners, the practice areas they access through cross-border work, and the income effects of regional mobility would reveal distributional impacts, while examining how family responsibilities, social norms, and professional culture interact with mobility opportunities would illuminate gendered constraints on capitalising on integration benefits. Study of mentorship networks and support structures for women practising across borders would identify mechanisms for enhancing their participation in regional legal markets, ensuring integration policy advances gender equality alongside economic efficiency.

BIBLIOGRAPHY

Books

- Abel, Richard (1988) *The Legal Profession in England and Wales* (Oxford: Blackwell Publishers)
- Andenas, Mads & Fairgrieve, Duncan (eds) (2015) *Courts and Comparative Law* (Oxford: Oxford University Press)
- Balassa, Bela (1961) *The Theory of Economic Integration* (London: Routledge)
- Barnard, Catherine (2016) *The Substantive Law of the EU: The Four Freedoms* (Oxford: Oxford University Press)
- Bwengye, Francis (2002) *Legal Practice in Uganda: The Law, Practice, and Conduct of Advocates* (Kampala: Marianum Publishing Co)
- Craig, Paul & De Búrca, Gráinne (2020) *EU Law: Text, Cases, and Materials* (Oxford: Oxford University Press)
- Freidson, Eliot (2001) *Professionalism: The Third Logic* (Chicago: University of Chicago Press)
- Goldsmith, Jack & Posner, Eric (2005) *The Limits of International Law* (Oxford: Oxford University Press)
- Hutchinson, Terry (2006) *Researching and Writing in Law* (Sydney: Thomson Reuters)
- Kingdon, John (2003) *Agendas, Alternatives, and Public Policies* (New York: Longman)
- Krasner, Stephen (1999) *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press)
- Larson, Magali (1977) *The Rise of Professionalism: A Sociological Analysis* (Berkeley: University of California Press)
- McConville, Mike & Chui, Wing Hong (2007) *Research Methods for Law* (Edinburgh: Edinburgh University Press)
- Merryman, John Henry & Pérez-Perdomo, Rogelio (2007) *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America* (Stanford: Stanford University Press)
- Olson, Mancur (1965) *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge: Harvard University Press)
- Petersen, Niels (ed) (2010) *Tax Systems and Tax Harmonization in the East African Community* (Dar es Salaam: Mkuki na Nyota Publishers)
- Porter, Michael (1990) *The Competitive Advantage of Nations* (New York: Free Press)
- Sebijjo, SE (2018) *Regional Integration in East African Community and European Union* (Saarbrücken: LAP Lambert Academic Publishing)
- Woods, Lorna, Watson, Philippa & Costa, Marios (2020) *Steiner & Woods EU Law* (Oxford: Oxford University Press)
- Zweigert, Konrad & Kötz, Hein (1998) *An Introduction to Comparative Law* (Oxford: Oxford University Press)

Chapters in Books

- Bhagwati, Jagdish 'The political economy of protectionism' in Salvatore, Dominick (ed) (1987) *The New Protectionist Threat to World Welfare* (Amsterdam: North Holland)
- Chynoweth, Paul 'Legal research' in Knight, Andrew & Ruddock, Les (eds) (2008) *Advanced Research Methods in the Built Environment* (Oxford: Wiley-Blackwell)
- Dobinson, Ian & Johns, Francis 'Legal research as qualitative research' in McConville, Mike & Chui, Wing Hong (eds) (2017) *Research Methods for Law* (Edinburgh: Edinburgh University Press)
- Ibok, Sulaiman & Atayero, Aderemi 'ECOWAS and the challenges to regional integration in West Africa' in Folarin, S, Akinlabi, E & Atayero, A (eds) (2022) *The United Nations and Sustainable Development Goals* (Berlin: Springer)
- Jacobs, Francis Geoffrey 'The role of the EU Court and national courts in developing the EU's internal market: a paradigm for other regional organisations?' in Amtenbrink, Fabian, Davies, Gareth, Kochenov, Dimitry & Lindeboom, Justin (eds) (2019) *The Internal Market and the Future of European Integration: Essays in Honour of Laurence W Gormley* (Cambridge: Cambridge University Press)
- Koskenniemi, Martti 'What is international law for?' in Evans, Malcolm D (ed) (2018) *International Law* (Oxford: Oxford University Press)
- Mak, Elaine 'The European Union's regulation of legal professions' in Febbrajo, Alberto & Sadurski, Wojciech (eds) (2010) *Central and Eastern Europe after Transition: Towards a New Socio-Legal Semantics* (Farnham: Ashgate)
- Mwase, Nkunde & Ndulu, Benno J 'Tanzania: explaining four decades of episodic growth' in Ndulu, Benno J & O'Connell, Stephen A (eds) (2008) *The Political Economy of Economic Growth in Africa, 1960–2000* (Cambridge: Cambridge University Press)
- Örücü, Esin 'Developing comparative law' in Örücü, Esin & Nelken, David (eds) (2007) *Comparative Law: A Handbook* (Oxford: Hart Publishing)
- Paterson, Sarah & Walters, Adrian 'Regulating law firms: from consumer protection to market competition' in Boon, Andrew, Webley, Lisa & Whyte, Avis (eds) (2014) *The Legal Profession in the New Legal World* (Oxford: Hart Publishing)
- Philpott, Daniel 'Sovereignty' in Zalta, Edward N (ed) (2020) *The Stanford Encyclopedia of Philosophy* (Summer 2020 edn) <https://plato.stanford.edu/archives/sum2020/entries/sovereignty/> (accessed 15 November 2025)
- Stephenson, Sherry 'General Agreement on Trade in Services and regional integration' in Sauvé, Pierre & Stern, Robert M (eds) (2000) *General Agreement on Trade in Services 2000: New Directions in Services Trade Liberalization* (Washington DC: Brookings Institution Press)
- Trouille, Helen & Binda, Martine 'The evolution of the free movement of lawyers in the European Union and the East African Community compared: achievements and challenges in implementing integration freedoms in England and Wales and Rwanda' in Trouille, Helen, Ndayisaba, Gérard & Trouille, Jean-Marc (eds) (2020) *Africa, the European Union and China towards a New Global Cooperation?* (London: Palgrave Macmillan)
- Van Hoecke, Mark 'Legal doctrine: which method(s) for what kind of discipline' in Van Hoecke, Mark (ed) (2011) *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Oxford: Hart Publishing)

Journal Articles

- Adepoju, Aderanti, Boulton, Adrienne & Levin, Mariah 'Promoting integration through mobility: free movement under ECOWAS' (2010) 46 *Refugee Survey Quarterly* 59
- Adepoju, Aderanti, van Noorloos, Femke & Zoomers, Annelies 'Europe's migration agreements with migrant-sending countries in the Global South: a critical review' (2010) 48 *International Migration* 207
- Aning, Kwesi & Atuobi, Joseph 'Responsibility to protect in Africa: an analysis of the African Union's peace and security architecture' (2009) 5 *Global Responsibility to Protect* 90
- Arthurs, Harry W 'Law and learning in an era of globalization' (2009) 10 *German Law Journal* 629
- Beer, Sebastian & Michielse, Geerten 'Strengthening source-based taxation' (2021) *Corporate Income Taxes under Pressure* 213
- Breen, Oonagh A 'The citizen and the state: questioning the unquestionable in the legal profession' (2013) 5 *International Journal of the Legal Profession* 1
- Brown, Kevin 'Two approaches to the modern reality of temporary cross-border legal practice: the United States and European Community' (2018) 70 *South Carolina Law Review* 1
- Buigut, Steven K & Valev, Neven T 'Is the proposed East African Monetary Union an optimal currency area? A structural vector autoregression analysis' (2005) 33 *World Development* 2119
- Charnovitz, Steve 'The legal status of the Doha declarations' (2002) 5 *Journal of International Economic Law* 207
- Corder, Hugh 'South Africa's transitional constitution: its design and implementation' (1996) *Public Law* 291
- Cremona, Marise 'The European Union as an international actor: the issues of flexibility and linkage' (1998) 3 *European Foreign Affairs Review* 67
- Dingwall, Robert & Fenn, Paul 'A "respectable" profession? Sociological and economic perspectives on the regulation of professional services' (1987) 7 *International Review of Law and Economics* 51
- Flood, John 'Megalawyering in the global order: the cultural, social and economic transformation of global legal practice' (1996) 3 *International Journal of the Legal Profession* 169
- Gastorn, Kennedy 'Cross-border legal practice in the East African community: prospects and challenges from the Tanzanian position' (2013) 6 *Journal of African and International Law* 1
- Gathii, James 'African regional trade agreements as flexible legal regimes' (2010) 35 *North Carolina Journal of International Law and Commercial Regulation* 571
- Gathii, James 'Mission creep or a search for relevance: the East African Court of Justice's human rights strategy' (2013) 24 *Duke Journal of Comparative and International Law* 249
- Goebel, Joseph 'Lawyers in the European Community: progress towards community-wide rights of practice' (1991) 15 *Fordham International Law Journal* 556
- Habimana, Jean Bosco 'The shadow of cross border legal practice in the East African Community' (2024) 5 *Journal of Contemporary Research in Social Sciences* 1

- Hazlewood, Arthur 'The end of the East African Community: what are the lessons for regional integration schemes?' (1979) 18 *Journal of Common Market Studies* 247
- Himbara, Robert 'Domesticating ideologies and building capabilities: structural adjustment in Tanzania and Uganda 1984–1994' (1997) 12 *Canadian Journal of Development Studies* 437
- Hoekman, Bernard & Mattoo, Aaditya 'Services trade liberalization and regulatory reform' (2011) 75 *Journal of Development Economics* 215
- Hutchinson, Terry 'The doctrinal method: incorporating interdisciplinary methods in reforming the law' (2015) 3 *Erasmus Law Review* 130
- Joireman, Sandra 'Inherited legal systems and effective rule of law: Africa and the colonial legacy' (2001) 39 *Journal of Modern African Studies* 571
- Keevy, James 'The SADC Qualifications Framework as a mechanism to improve the comparability of TVET qualifications in the SADC region' (Paper presented at the 4th Annual TVET Conference and Exhibition in SADC, 7–10 November 2006)
- Kuźelewska, Elżbieta 'Language policy in Switzerland' (2016) 45 *Studies in Logic, Grammar and Rhetoric* 125
- Laffont, Jean-Jacques & Tirole, Jean 'The politics of government decision-making: a theory of regulatory capture' (1991) 106 *Quarterly Journal of Economics* 1089
- Legarre, Santiago H 'The historical background of the police power' (2007) 9 *University of Pennsylvania Journal of Constitutional Law* 745
- Lenaerts, Koen 'The rule of law and the coherence of the judicial system of the European Union' (2007) 44 *Common Market Law Review* 1625
- Lonbay, Julian 'Assessing the European market for legal services: developments in the free movement of lawyers in the European Union' (2011) 33 *Fordham International Law Journal* 1629
- MacQueen, Hector 'Mixed jurisdictions and convergence: Scotland' (2001) 29 *International Journal of Legal Information* 309
- Masumbe, Pardon S 'Harmonising the legal frameworks of SADC, EAC and ECOWAS through regional integration under the Abuja Treaty: an analysis of the similarities, differences and challenges' (2025) 14 *Perspectives of Law and Public Administration* 1
- Mattoo, Aaditya 'National treatment in the GATS: corner-stone or Pandora's box?' (1997) 31 *Journal of World Trade* 107
- Moravcsik, Andrew 'Preferences and power in the European Community: a liberal intergovernmentalist approach' (1993) 31 *Journal of Common Market Studies* 473
- Mugambwa, John WK 'A comparative analysis of the transformation of East African legal systems since independence' (2007) 11 *Electronic Journal of Comparative Law* 1
- Mugambwa, John WK 'The reception of international law into Ugandan municipal law' (2008) 8 *African Human Rights Law Journal* 377
- Munya, Moses M 'The emergence and unravelling of the East African Community (1967–1977): implications for the revived East African Community' (2009) 26 *Development Policy Review* 589
- Murungi, Lynette N & Gallinetti, Jacqui 'The role of sub-regional courts in the African human rights system' (2010) 13 *SUR* 119

- Musoke, Japheth 'Trends in Kenya's legal services export to East Africa: examining the state of integration of EAC legal services industry' (2019) 7 *Strathmore Law Review* 1
- Ogus, Anthony 'Rethinking self-regulation' (1995) 15 *Oxford Journal of Legal Studies* 97
- Ojwang, Joseph B 'The role of the judiciary in promoting environmental compliance and sustainable development' (2007) 1 *Kenya Law Review* 19
- Oloka-Onyango, Joe C 'Constitutional transition in Museveni's Uganda: new horizons or another false start?' (2000) 26 *Journal of African Law* 15
- Ontanu, Elisabeta A & Pannebakker, Erlis 'Tackling language obstacles in cross-border litigation: the European Order for Payment and the European Small Claims Procedure approach' (2012) 5 *Erasmus Law Review* 163
- Oppong, Samuel 'A regional approach to professional mobility: the ECOWAS regime and the extent of its success' (2014) 38 *Fordham International Law Journal* 1
- Paterson, Sarah 'Regulatory competition in the legal services market' (2011) 74 *Modern Law Review* 559
- Pech, Laurent & Platon, Sébastien 'Rule of law backsliding in the EU: the Court of Justice to the rescue? Some thoughts on the ECJ ruling in *Associação Sindical dos Juizes Portugueses*' (2018) 24 *European Law Journal* 105
- Peters, Anne 'The merits of global constitutionalism' (2009) 16 *Indiana Journal of Global Legal Studies* 397
- Roy, Martin, Marchetti, Juan & Lim, Hoe 'Services liberalization in the new generation of preferential trade agreements' (2007) 6 *World Trade Review* 155
- Rubashasa, Hadijja 'Cross border legal practice in East Africa: a civil law perspective' (2011) 18 *The East African Lawyer* 45
- Ruhangisa, JE 'The role of the legal profession in the regional integration process: a case of East African Community' (2011) 18 *The East African Lawyer* 1
- Sapir, André & Sekkat, Khalid 'Exchange-rate regimes and trade' (1995) 9 *Journal of International Economics* 75
- Silver, Carole 'Globalization and the US market in legal services – shifting identities' (2007) 31 *Law and Policy in International Business* 1093
- Stigler, George 'The theory of economic regulation' (1971) 2 *Bell Journal of Economics and Management Science* 3
- Terry, Laurel 'Lawyers, GATS, and the WTO accountancy disciplines: the history of the WTO's consultation, the IBA GATS Forum and the September 2003 IBA resolutions' (2005) 2 *Penn State International Law Review* 1
- Terry, Laurel S 'An introduction to the European Community's legal ethics code part I: an analysis of the CCBE Code of Conduct' (1993) 7 *Georgetown Journal of Legal Ethics* 1
- Terry, Laurel S 'Lawyers, GATS, and the WTO accountancy disciplines: the history of the WTO's consultation, current services trade negotiations, regulatory developments, and future considerations' (2008) 2 *Penn State International Law Review* 1
- Terry, Robert 'The negative impact on American competitiveness of artificial barriers to trade in legal services' (1993) 27 *International Lawyer* 1093

Trabucco, Laura 'Lawyers' monopoly? Think again: the reality of non-lawyer legal service provision in Canada' (2018) 96 *The Canadian Bar Review* 783

Twinomugisha, Ben K 'Cross border legal practice in an integrated East African Community' (2011) 18 *The East African Lawyer* 5

Weatherill, Stephen 'The internal market' in *The Internal Market as a Legal Concept* (2009) 1

Weiler, Joseph HH 'The transformation of Europe' (1991) 100 *Yale Law Journal* 2403

Yeboah, Thomas and others 'The ECOWAS Free Movement Protocol and diversity of experiences of different categories of migrants: a qualitative study' (2021) 59 *International Migration* 26

Yeini, Samson A 'Whose international law is it anyway? The battle over the gatekeepers of voluntarism' (2024) 45 *Michigan Journal of International Law* 1

Reports

African Union 'Agenda 2063: the Africa we want' (African Union Commission, Addis Ababa, September 2015)

EAC Secretariat 'EAC Development Strategy 2016–2021: Deepening and Accelerating Integration' (East African Community Secretariat, Arusha, 2016)

Enabulele, Amos O 'Supranationality of ECOWAS and the community legal order: examining obligations and consequences of non-compliance thereof' (Paper delivered at the International Conference organized by the ECOWAS Court of Justice, Accra, Ghana, 21–24 October 2019)

Goldsmith, Jeffrey 'Globalising your practice: opportunities and challenges' (East Africa Law Society Conference Paper, 2017)

Hearson, Martin & Kangave, Jalia 'A review of Uganda's tax treaties and recommendations for action' Working Paper 50 (Institute of Development Studies and International Centre for Tax and Development, Brighton, 2016)

Lali, Dominic VM 'Ethical and professional dilemmas in Uganda in the face of liberalized and highly competitive markets' (Proceedings of a workshop held 18–19 May 2017, Uganda National Commission for UNESCO, Kampala, 2019)

Legal Aid Service Providers Network *Uganda Access to Justice Survey 2023* (LASPNET, Kampala, 2023)

Mutabazi, Eugene 'Rwanda's legal system and legal materials' (Globalex, New York University School of Law, January 2025)

OECD *Competition in Professional Services* (OECD Publishing, Paris, 2007)

OECD *Harmful Tax Competition: An Emerging Global Issue* (OECD Publishing, Paris, 1998)

Paterson, Iain, Fink, Marcel & Ogus, Anthony 'Economic impact of regulation in the field of liberal professions in different member states: regulation of professional services' (Study for the European Commission DG Competition, Institute for Advanced Studies, Vienna, 2003)

Qualmann, Regine 'Promoting regional integration in the Southern African Development Community (SADC) – current approaches and future prospects' (German Development Institute Briefing Paper 6/2000, Bonn, 2000)

Uganda Law Society 'Position paper on cross-border legal practice' (Uganda Law Society, Kampala, 2015)

Dissertations

Bwambale, Wilbaforce 'The Operation of Mutual Recognition Agreements vis-à-vis an East African Legislation on Cross Border Legal Practice: The Ugandan Perspective' LLM thesis, Makerere University School of Law, 2019 (on file with the author)

Ngubula, Mzukisi 'The SADC Protocol On Trade In Services: A Review Of The Protocol In Light Of The GATS And Other SADC Protocols And What It Means For Trade In Services In The Region' LLM thesis, University of Cape Town, 2013 (on file with author)

Sigei, Hillary K 'Liberalization of trade in legal services within the east African community' Masters Thesis, University of Nairobi, 2016 (on file with the author)

Tibihikirra-Kalyegira, Pamela 'Liberalization and the Development of Legal Education Policy in East Africa: A Case Study of Uganda' SJD dissertation, Indiana University Maurer School of Law, 2009 (On file with the author)

Watuwa, Patricia 'A Study Of How Legal Practice Protectionism Is Damaging The Case For Cross Border Legal Practice In The East African Community' PGDLP Thesis, Law Development Center, 2023 (on file with the author)

Websites

EAC 'Council decisions' <https://www.eac.int/documents/category/council-decisions> (accessed 15 December 2025)

EAC 'Democratic Republic of Congo' <https://www.eac.int/drc> (accessed 15 December 2025)

EAC 'History of the EAC' <https://www.eac.int/eac-history> (accessed 15 December 2025)

EAC 'Mutual recognition agreement for engineers' <https://erb.go.ug/wp-content/uploads/2024/09/MRA-Agreement-7.12.2012.pdf> (accessed 15 December 2025)

EAC 'Mutual recognition agreements' <https://www.eac.int/education/mutual-recognition-agreements> (accessed 15 December 2025)

EAC 'Pending bills' <https://www.eala.org/documents/category/bills> (accessed 15 December 2025)

EAC 'Protocols' <https://www.eac.int/documents/category/protocols> (accessed 15 December 2025)

EAC 'Sectoral Councils' <https://www.eac.int/organs-institutions/sectoral-councils> (accessed 15 December 2025)

EAC 'South Sudan' <https://www.eac.int/south-sudan> (accessed 15 December 2025)

EAC Secretariat 'Overview of EAC' <https://www.eac.int/overview-of-eac> (accessed 15 December 2025)

East African Community 'Mutual recognition agreement for registered and certified public accountants' <https://www.eac.int/documents/category/trade> (accessed 15 December 2024)

East African Community 'Mutual recognition agreement for registered and certified public accountants' <https://www.icpak.com/eacia-mutual-recognition-agreement/> (accessed 15 December 2025)

Kagire, Edmund 'Uganda dragged to regional court for blocking Rwanda-trained lawyers' KT Press, 1 July 2020, <https://www.ktpress.rw/2020/07/uganda-dragged-to-regional-court-for-blocking-rwanda-trained-lawyers/> (accessed 27 October 2024)

Oxford English Dictionary 'Facilitate' <https://www.oed.com> (accessed 15 December 2025)

Uganda Immigration 'Work permits' <https://www.immigration.go.ug/services/work-permit> (accessed 15 December 2025)