INTRODUCTION

1. Economic integration can be defined as the process through which at least two separate national economies are amalgamated into one trading bloc. It has enormous economic advantages and appears to be a prerequisite for regional socio-economic development. It takes various forms such as preferential trade area, free trade area, customs union, common market and economic union. Each of these forms is governed by specific rules. Some of them aim at the achievement of full economic integration covering all sectors of the economy; others are limited in scope; some require the creation of supranational institutions which have power over the Member States, while others require simple intergovernmental structures. Which form states adopt depends on the level of cooperation sought.

2. In Africa, economic integration is vigorously pursued, within the framework of the Regional Economic Communities (RECs) set up by the African Union under the 1991 Abuja Treaty. It takes the form of a common market, which entails, among other things:

- free movement of persons, goods, services and capital;
- establishment of a common external tariff;
- harmonization of the laws of the Member States to the extent required for the proper functioning of the common market.

Most recently, the African Continental Free Trade Agreement (AfCTA) was concluded, creating a single continental market for goods and services, facilitated by movement of persons. It entered into force on May 30, 2019.

3. However, despite the tremendous efforts made by African leaders, especially in the areas of regional infrastructure development and governance, the process of economic integration on the continent has been extremely slow, notably in terms of trade in goods and services, and

of investment. Statistics show that intra-regional trade in Africa is about 15% of what it should be. This is very low indeed compared to about “50 per cent for Asia and 70 per cent for Europe” (Lopes,C., 2016*: Regional integration and monetary union in Africa*).

4. Some of the reasons for this situation are the limited awareness of Community rights and obligations among the various stakeholders, and the weak enforcement of those rights and obligations. Thus, at national level, for instance, the rights created by the treaties in favour of regional economic operators are most often violated, but rarely enforced owing primarily to complex jurisdictional issues. Trade liberalization schemes are frequently subverted without that being challenged at local or Community level, leading sometimes to Member States taking unilateral actions to defend their essential national interests. Besides, there is a tendency on the part of some Member Countries to plead supremacy of their national laws to justify non-fulfilment of their Community obligations, in violation of the rules of the common market. These and many other problems which seem to have their roots in a lack of understanding of the functioning of the common market slow down the process of economic integration in Africa considerably.

PROPOSED ACTION

5. There is therefore a need for capacity building, through training seminars/workshops, in the area of community law. There have always been seminars on regional economic integration, but there does not seem to have been any focusing on purely legal matters the understanding of which is crucial for the proper functioning of the Community. The target group would be comprised of legal practitioners, academics with an interest in regional economic integration, civil servants from relevant ministries, departments and agencies, members of business communities and representatives of civil societies.

6. The main objective will be to enable the participants to familiarize themselves with the rules of the common market; they will understand, for instance, why, to use the words of the African Development Bank, sound integration policies developed within the RECs "have not been thoroughly and consistently translated into national legislation, even after treaties are signed and ratified. Even in cases where (they) appear in national legislation, too often they are not enforced" (*The AfDB' E-Consultation on Regional Integration Strategy – Have your Say!*). Furthermore, Legal practitioners will be better equipped to deal with matters governed by Community law at national level, ensuring the effectiveness of the latter.

7. In this connection, it is pertinent to appreciate that "community law" is a new legal order. Although it is based on treaties, it has basic rules and principles which differ in some aspects from those of "ordinary" international law. In case *Costa v ENEL* (1964) cited in our piece entitled *"The Role of National Courts and Tribunals in the Enforcement of Community Law (2)"*, the European Economic Community Court of Justice (ECJ) stated as follows: "By contrast with ordinary international treaties, the EEC Treaty has created its own legal system which, on the entry into force of the Treaty, became an integral part of the legal systems of the Member States…" Several principles emerge from this – as well as from other landmark decisions of the Court. Thus, what is feasible under "ordinary" international law which the vast majority of lawyers in the RECs are familiar with may not be feasible under this new, unfamiliar legal system.

8. It is also important to recognise that the implementation of the Community legal instruments is the responsibility not only of the executive, but also of the judiciary. The former is called upon to perform the obligations arising from the instruments, while the latter, as the judicial organ of States, has the duty to adjudicate over disputes relating to the infringement of individual rights as a result of non-compliance with those obligations. In the judgment of the ECOWAS Court of Justice cited in

one of our earlier papers, the Court held that national courts are also Community courts as they have competence to apply the Community law which forms part of the internal order. National courts therefore have a crucial role to play in the enforcement of regional integration rights and obligations. They may not be able to rise to the challenge if legal practitioners are not familiar with “community law”.

9. To the extent that the aforesaid law does not form part of the training programmes of the majority of lawyers in the RECs, it is imperative that they enhance their abilities in this domain through such capacity building activities – pending possible integration of that branch of law into their training programmes.

EXPECTED OUTCOME

The end results would include:

- Strengthening of the institutional framework of the RECs, optimizing the functioning of the judicial and political control mechanisms;
- Effective implementation of the Community legal instruments, including their enforcement, at both national level and Community level;
- Harmonisation of relevant national laws in the RECs;
- Reinforcement of the capacity of the RECs to achieve their objectives, especially in the areas of trade and investment.

CONCLUSION

There is no doubt that mastery of the rules of free movement within the context of a common market is one of the indispensable conditions for the achievement of the objectives set out in the treaties of the African Regional Economic Communities (RECs), especially in terms of market integration. It is hoped that African political and business leaders, relevant regional and continental institutions, among others, will recognize the need for capacity

development in the area of community law and take bold steps to address it.