



ECOCOURT

BULLETIN

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FROM THE PRESIDENT

Avid followers of the Court must have recently noticed an upswing in its visibility. Through an adroit combination of activities, the Court has elevated its consciousness in the psyche of the citizens, particularly since the outbreak of the constraining Covid-19 pandemic when it was compelled to take refuge in technology in order to continue to serve citizens desirous of benefiting from its service in an atmosphere constrained by the global Covid-19 pandemic. Consequently, it had to significantly invest in the acquisition of appropriate equipment that enabled it to undertake remote hearings despite the mutations of the pandemic.

This has been complemented by increased reportage of Court sessions by the Court, complemented by our media partners. The recent external court session held in Abidjan and the international conference in Lome whose theme revolved around the 20th anniversary of also contributed immeasurably.

The enhanced visibility speaks to the diligence of the judges and support staff, exemplified by the significant increase in the number of hearings and decisions of the Court. Despite the limitations of the pandemic, which has changed the character of the work place, the Court continued to discharge its judicial functions, insulated from the associated risks that necessitated social distancing and hygiene imperatives.

This explains why the Court was able to deliver 41 judgments over a year, a feat in the history of the Court which also experienced a significant boost in the number of filed cases during the period which stood at 70 as at December 2021

In this activity mix we have added this resuscitated newsletter which was last published in 2014, mainly because of the constraints of translation. It is intended that this publication will resume as a



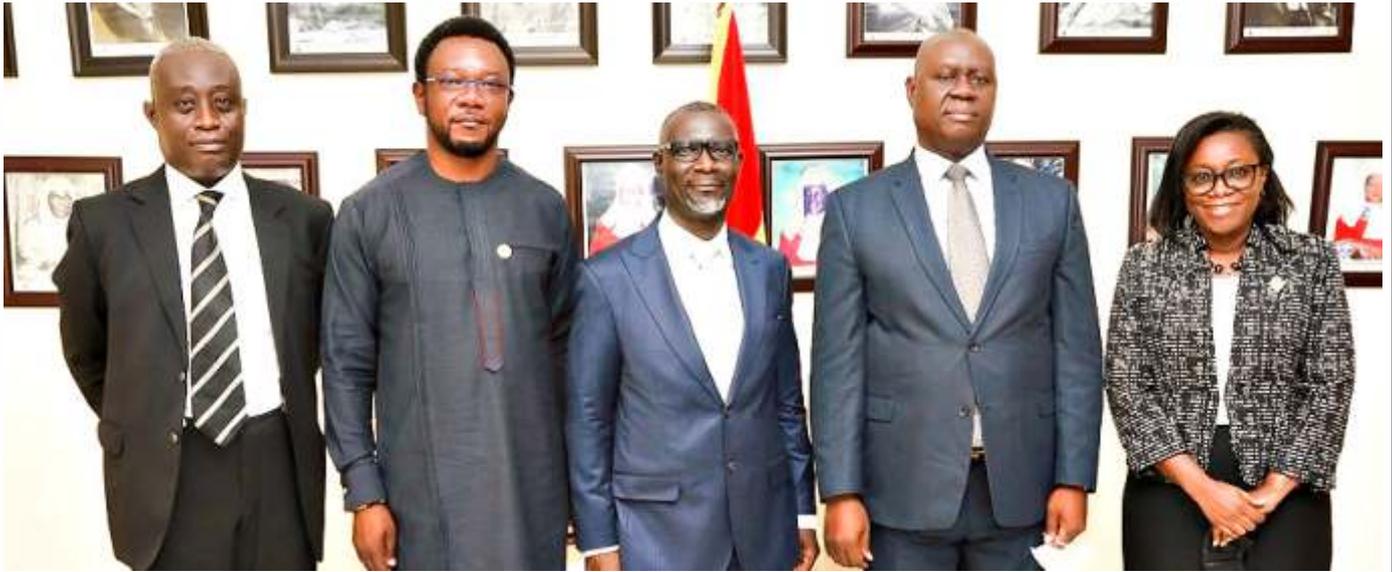
biannual and over some time be restored as a monthly. Hopefully, the translation challenges confronting the Court would have been resolved by that time in order to reinstate the frequency of this publication which constitutes a veritable source of diverse information for the benefit of staff and to a limited extent, our other stakeholders.

Unlike this edition, subsequent editions are envisaged to be more expansive in terms of the scope of the issues covered to include other issues of interest to the staff and other stakeholders including articles on access to the court, mandate and jurisdiction and others that will make the publication more appealing in order to engender and sustain public interest.

Consequently, we will welcome article that speak to the diverse issues around the Court and which our publics will find useful and informative. We also intend to restore the Bulletin in the New Year and reconstitute its editorial committee to help with the selection and editing of the content and expand the Court's media mix in order to satisfy the yearnings of our diverse stakeholders.

You are welcome to our new world

GHANA ON COURSE TO RATIFY COURT RELATED PROTOCOLS



The President (middle) with Justice Yeboah (Second Right) and other officials of both Courts

Ghana has begun the process for the ratification of all Protocols related to the ECOWAS Court, in order to facilitate the enforcement of the Court's decisions, the country's Attorney General and Minister of Justice, Hon. Godfred Dame Yeboah has said.

Yeboah revealed this to the President of the Court, Justice Edward Amoako Asante, who was on a visit to the country as part of his periodic visits to Member States.

The Minister and the visiting President of the Court used the opportunity to discuss Ghana's commitment to the development of the Court in the areas of the enforcement of its decisions and ratification of related texts.

Yeboah reaffirmed Ghana's determination to remove all obstacles to the enforcement of the decisions of the Court in the country.

In October 2019, President Nana Akufo-Addo of Ghana, designated the ministry as the country's focal point for the enforcement of the decisions of the Court.

Under Article 24 (4) of the 2005 Protocol on the Court, Member States are required to determine the competent national authority for the enforcement of the decisions of the Court.

Justice Asante also met with the Chief Justice of Ghana, His Lordship, Chief Justice Kwasi Anin Yeboah, during which they discussed the issue of cooperation between the Community Court and Ghana's national courts, as well as the role of the Chief Justices of Member States in the appointment of judges

of the ECOWAS Court.

Similarly, during the five-day visit, Justice Asante also interacted with other stakeholders, including the authorities of law schools, where he stressed the importance of incorporating ECOWAS Law in their curricula.

He assured them that the Court was mulling the possibility of reviving its moot court competitions, among law students in West Africa.

Justice Asante emphasized the 'critical importance' of the competition in ensuring that law students were 'sufficiently exposed' to Community Legal Texts and the Court's role in promoting human rights and good governance within the Community.

Among the institutions visited were the Ghana School of Law, Ghana Institute of Management and Professional Administration (GIMPA), the School of Law and the University of Professional Studies, (UPSA) School of Law all in Accra.



Justice Asante presenting the law reports to the Chief Justice

COURT CANVASSES SOLIDARITY OF THE REGIONAL PARLIAMENT FOR INCREASED EFFICIENCY

The ECOWAS Court of Justice invested USD 345,126 dollars to procure a virtual technology infrastructure that would enable it cope with the challenges of the COVID-19 pandemic, through the digitization of its processes and the conduct of virtual court sessions, the President of the Court has said.

Justice Edward Amoako Asante stated this in a goodwill message to the opening ceremony of the 2020 virtual session of the ECOWAS Parliament on Wednesday, 13th January 2021.

He noted that the deployment of the virtual technology had enabled the court to function optimally in safety, despite the raging pandemic that had made physical court sessions problematic.

The expenditure was incurred for the procurement of video conferencing equipment and related materials, after the initial disruptions of the Court's judicial functions which affected 60 cases scheduled for both hearing and judgment in the first quarter of 2020.

"The Court realized that in a post COVID-19 world, it was imperative to migrate to the virtual technology infrastructure, in order to continue to discharge its role," the President told regional parliamentarians at the Second Ordinary session of the Parliament for 2020.

"...the deployment of the virtual technology had enabled the court to function optimally in safety, despite the raging pandemic that had made physical court sessions problematic."

Justice Asante also said that the Court had aligned its practice direction to the realities of the virtual



The President delivering his goodwill message

technology and its deployment resulting in the efficient and uninterrupted disposal of cases, improvement in turnaround time for Court hearings and a general improvement in the management of case files.

Its other benefits, he added, included savings on legal costs, consisting of travel air tickets of Litigants, Agents, Lawyers and Witnesses, as well as logistics and hotel costs, while eliminating personal contacts between the Bench and the Lawyers, Agents, Litigants and witnesses with their attendant risks of infection.

The President urged the Parliamentarians, who were considering the budget of the Community during the weeklong session, to support the proposal by the Court to strengthen its Information Technology capacity to enable it cope with the human resource imperatives of the deployment of the technology.

"In doing so, you will be making an important contribution to the survival and functioning of the Court, while protecting the huge community funds that have been invested in the virtual technology infrastructure that has become the livewire of its operations," he said.

PRESIDENT OF THE ECOWAS COURT TASKS REGIONAL PARLIAMENT ON THE ENFORCEMENT OF THE COURT'S DECISIONS



The Chairman of the Authority of Heads of State and Government (fourth right) and other dignitaries at the opening of the first ordinary Session of Parliament

The President of the ECOWAS Court of Justice, Hon. Justice Edward Amoako Asante has charged Community parliamentarians to contribute to strengthening of the effectiveness of the Court by mobilising their Member States to set up mechanisms for the enforcement of its decisions.

Justice Asante made the call in his address to the opening of the first ordinary session of the fifth legislature of the ECOWAS Parliament for 2021 in Abuja on Thursday, 27th May 2021.

'The Court plays a strategic role in our regional integration process as it assists Member States to build a culture of democracy and good governance, by helping to strengthen human rights protection and respect for the rule of Law,' he stressed.

As evidence of their commitment to these objectives, Justice Amoako said that the Community committed itself, under Article 4 (g) of the revised Treaty, to the 'recognition, promotion and protection of human and peoples' rights in accordance with the African

In spite of this commitment, however, Justice Asante noted that only six Member States - Burkina Faso, Ghana, Guinea, Mali, Nigeria and Togo - had

complied with the provision of Article 24 of the Supplementary Protocol of 2005 on the Court.

The provisions were specific in requiring Member States to designate a competent national authority for the enforcement of the decisions of the Court.

'As stakeholders, we must all rise to defend the integrity of the Court, through the enforcement of its decisions as integration is impossible without a strong protection of human rights for which the citizens are the ultimate beneficiaries,' the President of the Court added.

“the Court plays a strategic role in our regional integration process as it assists Member States to build a culture of democracy and good governance, by helping to strengthen human rights protection and respect for the rule of Law”



The President delivering his goodwill message

He recalled the vexed issue of the reduction of the number and tenure of the judges from five years renewable to four non-renewable, to align it with the tenure of the other Community statutory appointees and as a cost saving measure. As well as the reduction in the number of judges ostensibly from seven to five.

'This rather sad and misguided alignment has left the Court as the only international court with such an arrangement, thereby robbing it of the benefits of institutional memory, continuity and experience and coming at a time of a steady increase in the number of cases which as at this week stands as 149 pending cases,' Justice Asante explained.

He added: All international courts, except the Community Court of Justice, ECOWAS, have mostly five, seven or ten-year tenures, which are also staggered to enhance and retain their jurisprudence and institutional memory.

"This state of our Court is a complete misnomer that must, as a matter of urgency, be corrected by the appointing authority if the Court is to maintain its pride and prestige as the best Court in Africa in respect of its human rights jurisprudence."

The President stated that the focus on the shortcomings of the court was borne with the belief that both institutions shared a common commitment to the emergence of a vibrant Court that is not encumbered from playing its role as the ultimate authority for the interpretation of Community texts.



The Chairman of the Authority of Heads of State and Government delivering his address

“ This state of our Court is a complete misnomer that must, as a matter of urgency, be corrected by the appointing authority if the Court is to maintain its pride and prestige as the best Court in Africa in respect of its human rights jurisprudence. ”

This is in addition to the exercise of its human rights mandate, by which it contributes to entrenching a culture of transparency and respect for the rule of law, he added.

The ceremony was attended by the Chairman of the Authority of Heads of State and Government of ECOWAS, President Nana Addo Dankwa Akufo-Addo and the Vice President of Liberia, Her Excellency, Jewel Cianeh Taylor.

Also in attendance were the President of the Senate of the Federal Republic of Nigeria, Sen. Ahmed Ibrahim Lawan, the President of the ECOWAS Commission, Jean Claude Kassi Brou, as well as senior officials of the Commission and the Federal Republic of Nigeria.

COURT LIFTS SUSPENSION, HOLDS ANNUAL ADMINISTRATION, FINANCE RETREAT



Judges (seated) and staff at the 2021 Administration and Budget Retreat

The ECOWAS Court of Justice on Monday, 28th June 2021 resumed its annual administration and finance retreat, a principal activity of the Court, that was suspended due to the COVID-19 pandemic that affected most of the support functions of the Court.

In his speech at the opening, the President of the Court, Justice Edward Amoako Asante described the resumption of the activity through the 13th Administration and Budget Retreat, as ‘an important milestone in the journey to the resumption of the activities of the Court that were suspended in compliance with the COVID-19 protocol.

“In order to continue to discharge its judicial function, while the pandemic raged, the Court had to deploy virtual technology which enabled the remote conduct of court sessions thereby

ensuring that its work was not disrupted”, he added.

Justice Asante expressed optimism about the possibility of resuming other strategic activities of the Court, such as the Judicial retreat, sensitization campaigns, the international conference and external court sessions outside the seat of the Court.

The five-day retreat focused on the performance, achievements, challenges and prospects as they related to the administrative and financial management of the Court.

The retreat, attended by the Judges, their Executive Assistants and Staff, also discussed the Court’s 2022 draft budget.



Hon. Justices Keikura Bangura (left) and Dupe Atoki at the retreat



The Vice-President in discussion with Justice Costa

Photos from the Retreat



COURT PRESIDENT LAUDS NIGERIAN GOVERNMENT FOR NEW OFFICE BUILDING



New Office Building of the Court, located at Gudu District – Abuja.

The President of the ECOWAS Court of Justice Hon. Justice Edward Amoako Asante has lauded the Federal Republic of Nigeria for providing a replacement office accommodation for the Court. He urged the staff to see the impending relocation to the more congenial building as an opportunity for increased performance.

The President made the commendation on Monday, 28th June 2021, at the opening of the 13th Administration and Budget retreat of the Court, the Court first non-judicial activity since the outbreak of the COVID-19 pandemic.

The President said the new and more spacious building would provide a more congenial working environment, with anticipated improvements in staff output and conduct.

Represented by the Vice President, Justice Gberi-be Ouattara, the president said provisions had been made in the 2022 budget to accommodate the concomitant costs of the movement to the new Court complex.

He noted with elation, that the retreat marked the resumption of Court activities after its disruption by the COVID-19 pandemic, which significantly affected the working arrangements in compliance with the attendant protocol.

However, he said, the outbreak had also spawned some positive opportunities as it enabled the Court to deploy virtual technology in addressing some of the challenges it faced, especially improving access to citizens at a more affordable cost.

Justice Asante also noted that some strategic staff would be disengaging from the service of the Court in

2022 after years of meritorious service, urging the affected departments to earnestly begin the process of replacement for a seamless transition and ensuring that their departure did not significantly affect the operations of the Court in delivering on its mandates.

Presenting the objectives of the retreat, the Director, Administration and Finance, Dr. William Deiyah Towah, stated that consistent with Article 11 of the Manual of Accounting Procedures, the 2022 draft budget consisted of two components: administration and programmes.

“ ...positive developments as it had enabled the Court to deploy virtual technology, in addressing some of the challenges it faced, especially improving access to citizens at a more affordable cost. ”

Consequently, he said that pursuant to Article 12 of the ECOWAS Manual of Accounting Procedures, cost estimates were solicited from the various departments/directorates, including the judges’ offices, in developing the draft budget, that would be presented to allow the input of all participants.

The draft budget may be subjected to some modifications, he said, given that the Court acted proactively in preparing the draft ahead of the issuance of the annual budget circular which is usually issued at the end of July or in early August by the Commission to guide in budget preparation.

SUBJECT MATTER INDEX OF THE ECOWAS COURT TO BE READY 2022, SAYS PRESIDENT



Judges in a group photograph with staff of the Court after the opening ceremony

The subject matter index of the Community Court of Justice, which had been outstanding for 16 years up till 2020, is to be available in 2022 as a reference material for the use of researchers, legal officers and other stakeholders, the President of the Court, Justice Edward Amoako Asante has announced.

In his closing remarks at the end of the second phase of the workshop on Friday, 28th May 2021, the President also said a technical committee would be constituted to review the outcome of the two workshops, in order to ensure accuracy and fidelity with the specificities of the cases.

He assured that the outcome of the exercise would be translated into the three Community languages prior to uploading on the web site of the Court, from where it could be accessed by those interested in the

jurisprudence of the Court, particularly its pronouncements on various issues.

Earlier, the Vice President of the Court, Justice Gberi-be Ouattara, who moderated the presentation of the final report, described the document as an objective reflection of the deliberations of the two phases of the workshop.

Deliberations during the workshop covered a wide range of issues including, Jurisdiction, Expedited procedure, Inadmissibility, locus standi, Rights to participate freely in elections.

There were also presentation on Intervention, Arbitrary arrest and detention, Compensation, Proof of Claim, Abuse of Rights and Violation of the Rights of Access to Justice.

Several recommendations were made at the end of the workshop, one of which was the need to re-examine the index and ensure it reflect the appropriate headings, the consolidation of paragraphs with similar legal principles and the synchronization of the disparities in the French and English versions. A committee on translation is planned for an expedited process.

During the first phase of the workshop, held from 2nd to 8th May 2021, the participants considered the subject matter index for the period 2004 to 2013 reflecting the decisions of the Court for the period.



The Vice-President (left) and Justice Dupe Atoki

Presentation of Law Report



The Chief Registrar of the Court, Mr Tony Anene-Maidoh on Monday 5th July 2021 formally presented the 2014 and 2015 law reports of the Court to the President, Honorable Justice Edward Amoako Asante at a brief ceremony in the President's office.

At the ceremony, which was also attended by staff of the Law Report unit of the judicial records, archives and publications of the Registry, the Chief Registrar hailed the publication of the reports as a landmark achievement in the effort to reduce the number of unpublished law reports of the Court.

He said the publication will also facilitate referencing for lawyers, researchers and others interested in the rich jurisprudence of the Court and commended the President for the support that facilitated the publication of the two reports which is only available at this time in English and French.

In his response, the President praised the team behind the compilation of the reports led by the Chief Registrar for the rigour and dedication

brought to bear on the process and promised that the Court will continue to make efforts to reduce the number of unpublished law reports.

He stressed the importance of law reports to the Court as an important reference tool for lawyers and others who may want to acquaint themselves with the case law of the Court.

The report for 2014 has 17 cases while that for 2015 has 34 cases.



COURT CLEARS WAY FOR NOMINEES OF MALI'S TRANSITIONAL PARLIAMENT TO SIT IN ECOWAS PARLIAMENT

The Court has urged the ECOWAS Parliament to consider six nominees of Mali's National Transitional Council as members of the Parliament and swear them in to enable them represent the country in the regional parliament.

In its advisory opinion no ECW/CCJ/ADV.OPINION/01/21 of 31st May 2021 rendered at the request of the Parliament, the Court held that the nominees should hold office 'until the election of new representatives by the new National Assembly which shall result from the restoration of Constitutional Order in the State of Mali.'

In reaching its decision, the Court noted that although the 2016 Supplementary Act on the enhancement of the powers of Parliament did not provide for the type of situation where nominees in to the Parliament would be made under a military arrangement, 'exceptional situations deserve solutions that are also exceptional.

'To refuse the State of Mali the possibility of participating in the Community's affairs seems counter sense, when the Community itself recognized the Transitional government in Mali,' the three member panel of the Court on the matter noted.

The panel, which was presided over by Honorable Justice Edward Amoako Asante, noted that by its understanding, "members of the CNT, which acts as the transitional parliament, elected to represent the State of Mali before the ECOWAS Parliament may only exercise such functions as long as the situation underlying the situation of provisionality lasts."

The Court noted that it circulated the request by Parliament for the opinion to all Member States but that only the Republics of Guinea, Ghana and Mali responded and were favorably disposed to the admission of the nominees.

Moreover, during a virtual hearing on the request held by the Court on 31st May 2021, only Cote d'Ivoire, Mali and Togo participated.

Also on the panel were Honorable Justices Dupe Atoki and Januaria Tavares Silva Moreira Costa.

The regional parliament had in the referral signed by the Speaker, Honorable Sidie Mohamed Tunis,, asked the Court to interpret the provisions of Articles 18.1 (g) and 18.2 (a and b) of its Supplementary Act to enable it determine whether to swear in six nominees of Mali's National Transitional Council as members of the Parliament.

In suit no: ECW/CCJ/ADV:OPN/01/21 the



Parliament had asked for the Court's pronouncement on the interpretation of Articles which relate to the enhancement of the powers of the Parliament.

This followed a letter of 7th January 2021 from the President of the Conseil National de Transition(CNT) of Mali, which serves as the country's parliament, forwarding the list of the six members elected to represent the country in the regional parliament during the CNT's plenary sitting on 5th January 2021.

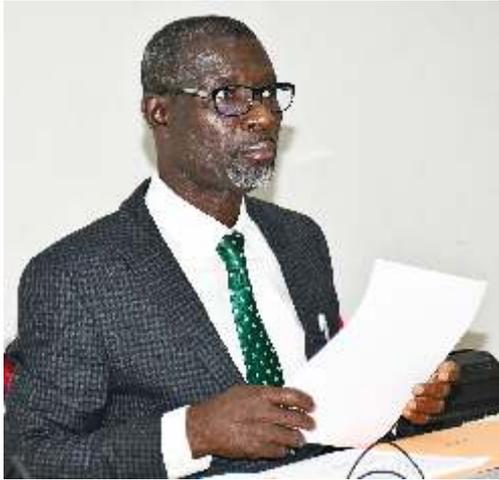
In the application dated 29th March, 2021 the speaker acknowledged that the CNT is an organ of the transition Government of Mali which has been recognized by the ECOWAS Community, African Union and the International Community.

He further stated that the CNT serves as an interim Parliament that will undertake Political, Institutional, Electoral and Administrative reforms preceding the return to Constitutional order as provided for in their Transitional Charter. Under the Parliament's Supplementary Act, new Members have to be sworn in before sitting as members of the ECOWAS Parliament.

The Speaker also noted that under Article 18(a) of the Supplementary Act, representatives of ECOWAS Parliament shall be elected by direct universal suffrage by the citizens of Member States

This was therefore the background for the referral from Parliament asking the Court to pronounce whether or not the members of CNT elected at the plenary sitting of January 2021 to represent Mali at the ECOWAS Parliament can be considered as ECOWAS Parliament Members and qualified to be sworn in.

Case Management Workshop in pictures



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