The President of the ECOWAS Court of Justice, Justice Edward Amoako Asante, on 16th February, 2023, paid tribute to a former Judge of the Court, Justice Keikura Bangura, who passed away on 6th February, 2023 and was buried in his home town after a programme of tribute at the country's Supreme Court in Freetown by the judiciary.

The solemn sessions, which were held on Thursday, 16th February 2023, also included the opening of the book of condolence for the late judge, who served as a judge of the Superior Courts of the Judicature before his appointment to the ECOWAS Court of Justice. In the tribute, Justice Asante recalled with a sense of pride, the late judge's meritorious service to the Court during his four year tenure which ended on October 2022 and exemplified by his role as Judge Rapporteur in the celebrated case of Amnesty International Togo and seven others against the Republic of Togo in which the Court in 2020 ordered the government to pay 2 million CFA to each of the applicants for the violation of their right to Freedom of Expression over the shutdown of the internet in 2017.

The landmark judgment delivered on 25th June 2020 earned the Court the 2022 Global Freedom of Expression prize of the University of Colombia, New York.

In the tribute, which was delivered by a judge of the Court, Justice Sengu Mohamed Koroma, the President noted that the late Judge contributed to the achievements recorded by the Court including the historic delivery of the highest number of decisions, some of them landmark, over the last four years. These decisions, he added, helped in the strengthening of the Court's jurisprudence in the protection of the human rights of the citizens.

He recalled that before joining the Court, the late Justice Bangura served in the law office department of the Ministry of Justice where he spent the greater part of his career starting as State Counsel. He later rose to become a Senior State Counsel before being promoted to the position of Principal State Counsel and then the Acting Head of International and Constitutional Law before his elevation to the bench.

Reflecting on his remarkable career, the President noted that the late judge 'has created something that will endure in his dedication to duty and those cherished values for which he will be remembered.'
NEW OFFICE FOR ECOWAS COURT UNVEILED IN ABUJA

Nigeria's Minister of State for Foreign Affairs, Ambassador Zubairu Dada on 30th January 2023, enjoined the ECOWAS Court of Justice to 'remain independent, reliable, efficient and accessible as a veritable legal institution of the Community, playing a strategic role' towards the creation of the enabling legal environment for the achievement of the objectives of the Community.

Unveiling the new building of the Court in the Gudu district of Abuja, the Nigerian capital, the Minister acknowledged the strategic role of the Court in the establishment and sustenance of such an environment which will foster the achievement of the aims and objectives of the Community.

Ambassador Dada assured that as ‘a responsible Member of ECOWAS, Nigeria will continue to ensure that it provides the necessary support and encouragement to all ECOWAS institutions and reiterated the country's commitment to ensure that ‘our sub regional organisation remains the best in Africa, and indeed, one of the best in the world.

Alluding to concerns by the President of the Court about the low level of enforcement of the decisions of the Court, which stood at 30 per cent, the Minister urged Member States to provide all the necessary support to the Court that will enable it thrive and which will ensure that it continues to efficiently discharge and promote its judicial functions.

The Minister acknowledged the ‘rather harsh and difficult environment’ that the Court worked in prior to the movement to the new building provided by the host government.

In a speech to the occasion, the Minister of the Federal Capital Territory, Mallam Muhammad Musa Bello said the
commissioning of the new building 'lends credence to the long standing and cordial relationship' with the Court which he described as an 'exemplary ECOWAS institution' and assured that the ministry will accede to the Court's request for the renewal of the rent for the new building when it becomes due.

In the speech, which was read by the General Counsel to the ministry, Mr Mohammed Babangida Umar, the Minister said the ministry sees the Court, the Community's judicial organ for the interpretation of its texts, as an ally in the protection of human rights, one of the Court's four mandates.

In remarks earlier, the President of the ECOWAS Commission, Dr Omar Alieu Touray said the new building 'represents a significant milestone in the history of the Court and the ongoing efforts to strengthen the rule of law and promote human rights in the region.'

'After several years,' he noted, 'the ECOWAS Court is now positioned as a pivotal judicial institution that inspires the confidence of litigants,' adding that the new office will enable the court to function efficiently and effectively.

Dr. Touray expressed optimism that the building will enable the Court increase its capacity to hear cases, provide greater access to justice for the Community as well as promote the rule of law in the region.

In his welcome address, the President of the Court, Honorable Justice Edward Amoako Asante, said the relocation opened a new dawn in the life of the Court and that beyond the more congenial physical environment for the staff, the new building offers the Court an opportunity for improved efficiency and productivity.

He recalled the decade long engagement by the Court with the host government for the provision of a more befitting replacement office for the Court as the previous office had 'become hopelessly inadequate for the needs of the Court as an international court mainly the increase in the number of staff among others.

'The year 2016 marked a turning point in this

...the ECOWAS Court is now positioned as a pivotal judicial institution that inspires the confidence of litigants,' adding that the new office will enable the court to function efficiently and effectively.

engagement after the Honorable Minister of the FCT, through the active involvement of the Ministry of Foreign Affairs, made a promise to a delegation of the Court who called on him, to rent a new office building as a temporary solution to the perennial accommodation challenge facing the Court,' he emphasised.

The President commended the two Ministers for their critical roles in the realization of this dream which 'should encourage the Court to expand its staff profile through additional recruitment to fill the vacancies in its organogram in order to leverage the additional skills for increased productivity in meeting the yearnings of the Community citizens and the fulfilment of its mandate.'

As part of the opening ceremony, which was attended by Judges and staff of the Court as well as ambassadors of ECOWAS Member States, guests were conducted around the building after the unveiling of the plaque.
The President of The Gambia, His Excellency Adama Barrow, opened the 2023 International conference of the ECOWAS Court of Justice on Monday 22nd May 2023, emphasizing the country's commitment to upholding democracy and the rule of law. The conference, held in Banjul, drew delegates from across West Africa to address issues related to unconstitutional changes of government.

In his opening remarks, President Barrow in an address read by the Vice-President Muhammad B.S. Jallow, underscored the importance of maintaining democratic stability for sustainable development in the region. He reiterated ECOWAS' zero tolerance policy toward unconstitutional government changes, labelling it essential for progress.

Following President Barrow's address, Justice Edward Amako Asante, President of the ECOWAS Court of Justice, highlighted the conference's significance in confronting recent democratic setbacks in the region. He emphasized the importance of democracy, rule of law, and the fight against unconstitutional changes of government in the ECOWAS region.

Justice Asante said this year's theme ECOWAS' Zero Tolerance for Unconstitutional Change of Government had been "very carefully chosen by the Court because of the several incidence of unconstitutional change of government that we have witnessed in our sub region in recent years."

He told participants that the role of the military was to protect the territorial integrity of the nation, meaning they should not turn guns against a government elected by the people. The President of the Court added:
The intervention of the Armed Forces in governance is an aberration that greatly undermines constitutional order, rule of law and participatory democracy. It also hampers economic development, foreign direct investment in the economies of such countries, which are invariably further subjected to economic sanctions. It also undermines the human rights regime.

Justice Asante urged representatives of Member States to take advantage of the conference to explore ways of providing a sustainable democratic culture in the Community. He prayed that the conference identify the causes of unconstitutional changes of government, and proffer recommendations that can put an end to military interventions in governance in our subregion.

He also stressed the need for collaboration among academics, jurists, and lawyers to address the challenges posed by such setbacks.

The keynote address was delivered by Professor Chidi Odinkalu, a renowned expert in Human Rights Law from the Fletcher School of Law and Diplomacy in the United States. Odinkalu’s speech focused on the theme "Zero tolerance for unconstitutional change in government in West Africa," exploring the intersections of democracy, human rights, and sustainable development. He urged participants to prioritize these principles in the face of adversity, emphasizing their crucial role in promoting stability and prosperity across West Africa.

In addition, participants examined the linkages with the rule of law, and the duty for Member States to respect, protect and fulfil human rights in their territories; the underlying factors for political instability, terrorism and insecurity in the sub region; failure by Member States to fulfil their obligations to ECOWAS; weak institutions of Member States; and the lack of political will for the implementation of community obligations.

Finally, the conference analyzed the mandates of the Court in facilitating the integration process of the Community and holding Member States accountable for their Treaty obligations; the roles of the national courts of Member States and the ECOWAS Court of Justice in upholding and sustaining the rule of law and constitutional democracy in the sub region; the ECOWAS Community Law/ECOWAS legal order; and the challenges of enforcement of the judgments of the Court.
AFRICA LEADS IN THE LEAGUE TABLE OF COUPS WITH 48.3 PER CENT OF SUCCESSFUL COUPS SINCE 1950

The Guest Speaker at the 2023 international conference of the ECOWAS Court, Professor Chidi Odinkalu, has urged African Union Member States to ratify the 2014 Malabo Protocol of the African Union which extends the jurisdiction of the yet to be established African Court of Justice on Human Rights (ACJHR) to include crimes under international law and transnational crimes.

The Protocol invests the Court with the jurisdiction to try 14 different crimes, including genocide, crimes against humanity and war crimes and emerged from a rigorous process designed to enhance the jurisdiction of the Court in response to the dynamics of the international environment.

In his keynote address at the opening of the conference on Monday, 22nd May 2023, he lamented that no African country has ratified the Protocol, which will create a third section in the ACJHR with responsibility for international law in the Court.

The Guest Speaker, who spoke on Zero tolerance for unconstitutional change in government in West Africa: democracy and rule of law for sustainable development, challenged the Republic of The Gambia to take the lead in the ratification, as host for the conference and the headquarters of the African for Human and Peoples' Rights.

Professor Odinkalu, who is an activist and former Chair of Nigeria's National Human Rights Commission, said the ratification of the Protocol will pave the way for its operationalization, noting that Africa accounted for 48.3 per cent of all successful coups since 1950 with West Africa alone accounting for 169 of the coups.

According to him, Burkina Faso enjoys the distinction of the most coups on the continent, with eight successful coups out of nine followed by other countries including the Republic of Benin and the Federal Republic of Nigeria with Cape Verde being the only exception in the...
OFFICIALS AND SOME INVITED GUESTS AT THE CONFERENCE

Representative of ECOWAS Commission President

Justices Koroma (left) and Gonçalves
A panelist at the 2023 international conference of the ECOWAS Court, Professor Oumarou Narey, has cast doubt on the efficacy of West Africa's constitutional convergence principles of 2001 as the panacea for ensuring political stability in the region following the resurgence of military dictatorships in the region compounded by efforts at tenure elongation by elected leaders.

The principles, which supplements the 1999 regional Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, provides among other things, for popular participation in decision making, strict adherence to democratic principles and decentralization of power at all levels of governance while the armed forces must remain apolitical and under the command of a legally constituted politically authority. Moreover, no serving member of the armed forces may seek to run for elective political officer.

But in his presentation on the opening day of the conference on Monday, 22nd May 2023, Professor Narey argued that these principles, which were adopted in response to the spate of military interventions in the region in order to deter military adventurers and ensure the protection of constitutional order were inefficient. He added that these principles need reinforcement with additional measures that takes cognizance of current realities including the inclusion of youth in the implementation of the principles in order to ensure the holistic involvement of community citizens.

He then proposed the notion of a "regional constitution" which would be a constitutional model articulated around values supposed Cont’d on page 16
COMMUNICATION EXPERT CHALLENGES ECOWAS MEMBER STATES TO IMPROVE ON PROCESSES FOR CREDIBLE ELECTIONS

A global Affairs Analyst and Communication Specialist has challenged governments of the ECOWAS member States to improve on the processes for free, fair, and transparent elections in the region.

In a paper he delivered on Tuesday 23 May 2023 at the ECOWAS Court of Justice Conference on Zero tolerance for unconstitutional change of government in Banjul, the Gambia, Mr. Paul Ejime described election as multi-stakeholder enterprise that requires every actor to play their parts effectively.

“It is important to note that the same stakeholders who should facilitate free, fair, and transparent elections can ultimately undermine the process by their conducts or disposition, actions/inactions,” said Ejime.

Mr. Ejime, who spoke on Lack of Free, Fair and Transparent Elections as a Key Source of Conflict: Holding ECOWAS Member States Accountable for their Treaty Obligations and the Sanctions Regime, lamented that in many cases, governments which are supposed to put in place the mechanisms for credible elections, often undermine the process for the selfish interests of politicians.

“The partisan disposition of many governments, including by rigging of election to obtain or retain power; starving electoral commissions of funds; control of the Parliaments and the Judiciary; altering the national constitutions and electoral laws; narrowing the democratic space, human rights violations; applying undue pressure on the electoral umpire and clamping down on the opposition... combine to undermine free, fair and transparent elections in the region,” Ejime added.

He noted that “many of the Electoral
Commissions in the region were anything but independent or autonomous because their members are appointed by the Government, and are, therefore, unable to resist political pressure from the government, or inducements by political parties, or candidates.”

He also listed the other stakeholders who undermine electoral process to include Security Agencies, the Parliament, the Judiciary, Civil Society Organizations, the Media, the electorate, and Development partners. He added that the situation “has led to instability and the resurgence of military incursions in politics in the ECOWAS region”.

For electoral processes to succeed, he said stakeholders must play their part under defined rules of engagement in all stages of the electoral cycle - before, during, and post-election.

He added: “No matter how free, fair, and transparent, elections alone cannot guarantee freedom, democracy, or good governance, noting that “elections have been a significant source of violent conflicts and political instability in the ECOWAS region”.

“It is important to note that the same stakeholders who should facilitate free, fair, and transparent elections can ultimately undermine the process by their conducts or disposition, actions/inactions,”

Presenters and participants at the four-day conference, which opened on Monday, 22nd May 2023, include Ministers of Justice and Attorney General, eminent judges and lawyers from ECOWAS member states as well as experts in governance, constitution, human rights, and elections.

The conference, a major annual programme of the ECOWAS Court, produced recommendations on the way forward for credible elections and consolidation of democracy in the ECOWAS region.

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Africa Leads in the League Table of Coups with 48.3 Per Cent of Successful Coups since 1950

phenomena of coups in the continent. While he argued for jettisoning the notion of a military coup as a ‘self-legalizing illegality,’ as the continent continues its search for solutions to the resurgence of the military in politics and alluded to the difficulties with the efficacy of existing legal frameworks for preventing such incursions, adding that the continent should deal with popular uprisings and ensure the protection of judges to insulate them from being intimidated into acquiescence.

Additionally, the guest speaker said that it was not enough to condemn soldiers for encroaching on the democratic space, this should be extended to political adventurers who carry out constitutional and political coups or use court orders for tenure elongation and the subversion of national constitutions.

“...said the ratification of the Protocol will pave the way for its operationalization, noting that Africa accounted for 48.3 per cent of all successful coups since 1950 with West Africa alone accounting for 169 of the coups.”

The four day 2023 international conference of the Court is on the theme: ECOWAS' zero tolerance for unconstitutional change of government and was attended by about 150 academics, jurists and lawyers. The conference was declared open on Monday, 22nd May 2023 by the Vice President of The Gambia, Mr. Muhammad BS Jallow.
The ECOWAS Community Court's 2023 International Conference on Zero Tolerance for Unconstitutional Change of Government (UCG) in West Africa, has ended in Banjul, the Gambian capital with wide ranging recommendations, including the criminalisation of UCG and the creation of a special task force to intervene in cases of UCG in Member States.

The four-day conference also called for the strengthening of "the apolitical nature of the Armed Forces to guard against UCG," and utilising "early warning tools and existing Protocols to regionalise the regional peace and security architecture."

Participants, mostly jurists, lawyers and academics, called for definition of the term "unconstitutional change" in the ECOWAS instruments and what constitutes a violation of convergence principles clearly spelt out. It also called on "Member States to stem tenure elongation, eliminate all pseudo-democratic laws, and criminalise UCG at the national level with national courts having jurisdiction."

It recommended effective sanctions against perpetrators of UCG, including coup plotters and their supporters, with the amendment of the ECOWAS Supplementary Protocol on Democracy and Governance to "ensure that sanctions do not affect the fundamental human rights of ordinary citizens."

The Communique urged a "review of the efficiency of sanctions" and creation of an implementation guideline, while calling for respect of term limits and an end to constitutional manipulations by incumbents to extend their mandates.

It further called for a stop to tenure extension by political leaders, while the Protocol of the Community Court of Justice should be modified to allow for judicial intervention in election matters.
It also recommended the strengthening of the means of settling electoral disputes at the national level through the enactment of laws and setting up of mechanisms for independent adjudication of electoral disputes.

The Conference called for an increase in the number of judges of the ECOWAS Court of Justice in line with International best practices and the amendment of the “Protocols on the Court to enable access to individual citizens in respect of violations of community laws/obligations including activating sanctions proceedings against member States.”

ECOWAS should “muster the political will to hold member States accountable to their treaty obligations,” the Communique said.

It further called for the guarantee of the independence of the judiciary and the strengthening of the capacity of courts to render justice and also recommended that the root causes of political conflicts should be addressed to ensure political stability, peace, and progress, as well as cultivation and strengthening of a democratic culture for economic growth.

ECOWAS should “combat corruption in public life as it undermines public confidence in state institutions and creates conditions for instability,” noted the Communique.

It also called for measures against misinformation and disinformation, particularly the negative impact of social media and the involvement of the youth.
ECOWAS should ensure strict adherence by member States to the provisions of the African Charter on Human and Peoples’ Rights, and “effective implementation of regional Treaty and Protocols to make compliance thereof a condition for retaining the membership of the sub-regional bloc,” the Communique urged.

Furthermore, ECOWAS should strengthen the competences and enforcement capacities of the ECOWAS Court of Justice as well as focus on the fight against poverty and the promotion of social dialogue.

It advised that National Electoral Institutions should be supported with structured training of stakeholders such as political parties, Civil Society, academia, and the media, on community principles and values.

According to the Communique, ECOWAS should “utilise proactive preventive diplomacy, mediation and results oriented conflict management strategies driven by consistency, neutrality and inclusivity to deal with management and resolution of conflict.”

It called for the creation of a functional mediation, conciliation, and arbitration committee for settling disputes in ECOWAS countries, and with a standard Community legal framework for member States to fulfil their treaty obligations.

ECOWAS member States should ensure strict adherence to the provisions of the African Charter on Human and Peoples’ Rights, the Communique recommended, and called “a deliberate effort to discourage the teeming youths from being dangerously radicalised by Terrorists, Separatist Militias, Bandits, Kidnappers, and Ethno-religious fundamentalists within the West African sub-region.”

In his remarks at the closing ceremony, the country’s Minister of Trade, Industry and Regional Integration, Mr Baboucar Joof described the experience of the conference as a ‘first class law school which provided an opportunity to listen to great minds from the region and commended the Court for hosting the conference in the country.”

He expressed optimism that after a stimulating conference, the outcome will contribute to the promotion of peace and stability, which are the preconditions for regional the reginal development behind the ECOWAS integration objective.

Similarly, the Attorney General and Minister of Justice, Mr. Dawda Jallow described the conference as “humbling,” with the expectation that the outcome will ensure that “West Africa is firmly rooted in good democracy and good governance.”

He said that through the conference, the region has demonstrated the power of collaboration which is a critical ingredient in the promotion of a strong democratic couture built on global best practices.

In his closing remarks, the President of the Court, Justice Edward Amoako Asante said the conference was characterised by “excellent presentations by our very knowledgeable resource persons, robust contributions by our distinguished participants and the cross fertilization of ideas resulting in a fruitful conference.”

Justice Asante described the timing of the conference as apt, coinciding with a period of the resurgence of military governments in three Member States, assuring that ‘we would therefore continue to sound the alarm about the dangers of unconstitutional change of government.”

Consequently, he commended the Heads of State and Government of the Community for their efforts to restore constitutional order in the three Member States, adding: “we recognise the need to strengthen our region, democratic process and culture and reject in its entirety, all forms of military intervention in governance as well as undemocratic ascension to power and tenure elongation.
“Elections must be free, fair and transparent in order to avoid unnecessary conflicts and political instability in our sub-region as we are convinced that we cannot achieve our economic integration agenda without sustainable participatory democracy, rule of law and respect for human rights. The President assured of the willingness of the Court to “deepen our collaboration with the national courts and we would continue to explore ways to deepen our fraternal relations with national courts,” reiterating that “the Court is not in competition with national courts, rather we are partners in progress.”

In addition, he said the jurisprudence of the ECOWAS Court recognises that it is not an appellate court over the national courts of Member States. He emphasized the fact that in the Community legal order, the Court relied on the national courts of Member States for the enforcement of its judgements.

The Vice President of the ECOWAS Court, Justice Gbéri-Bé Ouattara, who delivered the vote of thanks at the ceremony, commended the participants for their involvement and contributions that contributed to a successful conference.

The keynote address at the opening of the conference on Monday, 22nd May 2023, was delivered by Professor of Practice at Tuft University in the US, Professor Chidi Odinkalu. It was opened by President Adama Barrow.

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Involvement of Citizens and Youth, Key to Successful Democracy in ECOWAS Member States

to establish new relations between States and their citizens with ECOWAS charged with the responsibility to operationalize the doctrine by generating common minimum standards that would be respected by all States.

Professor Narey noted that the region’s sanctions regime against governments that do not abide by these rules have not prevented neighbouring countries from embarking on the path of unconstitutional change of governments.

He also mentioned the intrusion of national armies in the democratic process through coup d’état. In fact, he said since 1975 when ECOWAS was established, only Senegal and Cap Vert have not endured military taking of power.

The speaker advised ECOWAS Member States to insist on zero tolerance for critical matters like the limitation of presidential tenure, controversial revision of constitutions and corruption which are easily detectable or measurable.

“...argued that these principles, which were adopted in response to the spate of military interventions in the region in order to deter military adventurers and ensure the protection of constitutional order were inefficient.”

He also urged regional authorities to strengthen national institutions, particularly constitutional jurisdictions and electoral commissions. He said the electoral commissions, being the ones organizing elections, should be made independent vis-à-vis the executive and the legislative arms of the government. He insisted on the role of the constitutional jurisdictions which are the last rampart against violation of the principles of the fundamental law.

Professor Narey is professor of public law at the Abdou Moumouni University of Niamey in the Republic of Niger.
A former Chief Registrar of the ECOWAS Community Court of Justice, Mr. Tony Anene-Maidoh, has identified the non-involvement of the region's political authorities in the enforcement mechanism of the judgments of the Court as a lacuna in the mechanism that requires a “redesign” of the mechanism.

Records at the court showed that about 106 judgments against Member States have not been enforced with another 11 outstanding against the ECOWAS Commission and Community institutions.

Describing the current enforcement mechanism as “rudimentary” and inconsistent with international best practice, the former official said in a paper at the 2023 international conference of the Court in Banjul that mechanism needed to be “re-designed” to align it with international best practice “taking into account, the perceived shortcomings of Article 24 of the 2005 Supplementary Act on the Court relating to the enforcement of its decisions.”

The purpose of such a design, he said, is “to give ECOWAS political authorities, like the Council of Ministers and the Authority of Heads of State and Government and the Court a role in monitoring and supervising the implementation of its judgments.”

He suggested that the 2012 Supplementary Act on Sanctions should be amended to include a provision empowering the Court not only to set time limits for compliance with its judgments but prescribe the details of the judicial sanctions for non-compliance in the form of day to day or lump sum monetary penalty. He also added successful parties in actions before the Court should be empowered to trigger the sanctions mechanism against States.

In the 41-paged presentation titled “An appraisal of the judgment enforcement mechanism of the ECOWAS Court of...” Cont’d on page 22
The President of the ECOWAS Court of Justice, Justice Edward Amoako Asante has pledged to engage with the ECOWAS Commission, relevant institutions of the Community and Member States to ensure the implementation of the recommendations of the just concluded international conference of the Court as these will help arrest the resurgence of military rule in the region.

'Obviously, the resurgence is not only a threat to regional peace and security with implications for all of us but also to our cherished values of human rights, accountability and fundamental freedoms that require our collective effort to reverse for regional stability,’’ the President said during a thank you visit to the Chief Justice of The Gambia, Justice Hassan B. Jallow.
He assured the Chief Justice that the Court will follow up on his proposal for the creation of a forum of Chief Justices of the region that will facilitate experience sharing, cooperation and interface with the Court as this will help deepen Community law and justice.

“Hopefully, it should be possible to inaugurate such a forum from next year as this will facilitate judicial cooperation and help in the development of Community law,” he said.

He used the opportunity to commend the Chief Justice for his contribution along with the judiciary and other high officials of the government to the success of the international conference hosted by The Gambia held between 22nd and 25th May 2023 on the theme ECOWAS’ zero tolerance for unconstitutional change of government.

He said that the visit was consistent with the demands of the African tradition and to acknowledge the ‘fervent’ support enjoyed by the Court for the conference which has left an ‘indelible’ impression on its management and staff.

In his response, Justice Jallow urged the President to work with Member States to ensure the implementation of the recommendations of conference, particularly those that will enable the region address the creeping threat to the region’s democracy with the resurgence of military coups in the Republics of Burkina Faso, Guinea and Mali.

“We wish we could have contributed more to the conference, particularly the participation of officials of the judiciary, including judges in the panel,” the Chief Justice emphasized.

Justice Asante was also at the Ministry of Trade, Industry, Regional Integration and Employment where he was received by the Permanent Secretary, Mr. Lamin Dampha and used the opportunity to ensure the State’s availability to host another activity of the Court.

“The President assured the Permanent Secretary, who received the delegation of Court on behalf of the Minister.

“...urged the President to work with Member States to ensure the implementation of the recommendations of conference, particularly those that will enable the region address the creeping threat to the region’s democracy with the resurgence of military coups...”

The President had earlier met with the Attorney General and Minister of Justice, Mr. Dawda A. Jallow, who told him that the government was mulling the possibility of transforming the country into a hub for international conferences because of the facilities available at its new conference centre and the negative effect of the Covid pandemic on its tourism industry, a main source of government revenue.

He also told his visitor that the government plans to construct three star hotels behind the conference center to provide quality hotel adjoining the centre for visitors while a new VIP facility has been constructed at the airport for the use of this category of visitors.

Earlier, Justice Asante had described the conference as the most successful organized by the Court and the venue as among the biggest and best of such facility in the region.

Some 24 papers were presented and discussed during the four day conference under seven sub themes while Professor Chidi Odinkalu, a lawyer, human rights activist and professor of Practice at Tuft University in the US delivered the keynote address as the Guest Speaker.
The Republics of Niger and The Gambia have become the latest countries to determine their competent national authorities for the enforcement of the decisions for the Court, bringing the number of such countries to nine.

The letters conveying their decision were received by the Court in May 2023 in line with the provisions of Article 24 of the 2005 Supplementary Protocol which vests Member States with the responsibility for the enforcement of the judgments of the Court in accordance with its Rules of Civil Procedure.

In particular, Article 24 (4) of the Protocol provides that each Member State shall determine the competent national authority for the purpose of the reception and processing of the writ of execution of the judgments of the Court on its territory.

The President of the Court, Justice Edward Amoako Asante said with the action of the two Member States, they have joined Burkina Faso, Cote d'Ivoire, Guinea, Ghana, Mali, Nigeria and Togo in the growing list of countries that have determined their competent authority for the enforcement of the decisions of the Court.

“We are excited by this development, which is indicative of the efficacy of our engagements with the Member States through advocacy and sensitization to encourage them not only to determine their competent national authorities but also to enforce the decisions of the Court which remain abysmally low,” the President said.

He said that The Gambia and Niger designated the offices of their Attorney Generals for this purpose and urged the remaining six Member States that have not done so to determine their own authorities as this will provide further evidence of their commitment to their Community obligations.
ECOWAS AND AFRICAN COURTS SIGN NEW FIVE-YEAR COOPERATION AGREEMENT FOR IMPROVING THE EXECUTION OF THEIR MANDATES

The ECOWAS and African Courts have agreed on new initiatives for improving the execution of their respective mandates under a new Memorandum of Understanding (MOU) signed between the two Courts in Arusha, United Republic of Tanzania.

Both courts agreed under the MOU, which was signed on 24th June 2023 at the end of a three day judicial dialogue of the judges and officials of both courts, to cooperate through staff exchanges, representation in each other's programme, undertake joint training, knowledge and information sharing. The cooperation also extend to the publication of their respective jurisprudence as well as research and capacity building within the framework of their constituent instruments.

The MOU, which succeeds the 2018 inaugural MOU by both courts that lapsed in March 2021, is intended to reinforce the existing good relationship between the courts in the protection of peoples' human rights.

During the dialogue, the two Courts discussed a wide range of issues relating to their respective mandates and a number of presentations were made by their officials followed by discussions on their respective jurisprudence. This is mainly in the areas of human rights; their overlapping jurisdictions; their structures, appointment procedures and tenure; funding; access to the two Courts, admissibility of cases, challenges on compliance with their decisions and mechanisms put in place for the implementation of their decisions, among others.
Their legal staff also held a working session to share experiences and exchange ideas on matters of common interests, particularly on case management, drafting of judgments, legal aid, enforcement of judgments as well as the challenges and measures taken to resolve the identified challenges.

In addition, they reviewed their inaugural MOU which expired in March 2021 and identified the challenges that impeded the effective implementation of its provisions. They then recommended its renewal, and made proposals with a view to ensuring that the successor MOU is more effective and implementable.

The two Courts also adopted a five-year Plan of Action for the effective implementation of the MOU.

The closing ceremony of the dialogue was jointly presided over by the Presidents of the two courts, Honorable Justice Edward Amoako Asante and Honorable Lady Justice Imani Aboud of the ECOWAS and African Courts respectively.

The delegation of the ECOWAS Court, accompanied by some Judges of the African Court, visited the United Nations International Residual Mechanism for Criminal Tribunals (IRMCT) and the East African Court of Justice also based in Arusha, United Republic of Tanzania.

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Former Chief Registrar Calls for Redesign of the Enforcement Mechanism of the Decisions of the ECOWAS Court to Improve on the Level of Enforcement

Justice,” the retired official proposed 11 other measures for improving on the level of enforcement, including the domestication of the Revised Treaty, Protocols and other regional texts and their incorporation into the domestic laws of Member States in accordance with Article 5(2) of the Revised Treaty,

Moreover, Member States should enact the implementing legislation for the enforcement of the Court’s decisions to enable national courts recognize and enforce such judgments in addition to assigning the ECOWAS Commission a role in the enforcement mechanism while a committee of Ministers should be constituted to monitor and supervise the enforcement.

He added: “The Court should be empowered to send its own annual report to the ECOWAS Council of Ministers and /or the Authority of Heads of State and Government on the status of compliance with its judgments by Member States like in the African Human Rights system and the Inter-American Court of Human Rights enforcement mechanism.”

He told the 150 participants comprising jurists, academics and legal practitioners that the revised mechanism should provide that upon delivery of a judgment by the Court, a copy should be sent to the President of the ECOWAS Commission and Member States notifying them of the decision in order to ensure that steps are taken towards its enforcement.

Mr Anene-Maidoh, who retired effectively from the Court on 30th September 2022 after about 18 years’ service as its Chief Registrar, suggested the creation of a dedicated unit in the ECOWAS Commission, with the mandate to follow up, investigate and verify compliance in collaboration with the relevant unit of the Court responsible for appeals, arbitration and enforcement.

The four day 2023 international conference of the Court was held on the theme ECOWAS Zero tolerance for unconstitutional change of government.
A delegation of the Community Court of Justice, ECOWAS has concluded a study visit to the European Court of Human Rights in Strasbourg, France during which both courts held a judicial dialogue to discuss issues of common interest.

The delegation was welcomed on arrival on Thursday, 16th March 2023 by the President of the European Court of Human Rights, Justice Siofra O’Leary followed by a meeting with the Arnfinn Bardsen, section President who made a general presentation on the role and work of the Court.

The delegation later met with other officials of the Court who made presentations on admissibility rights criteria, main substantive rights and statistics of the Court.

There were also presentations by the Directorate of Juriconsult, the knowledge platform and the Superior courts network as well as on Human Rights and Rule of Law and the execution of the judgments of the Court.

After the European Court of Human Rights, the delegation of the west-african visited the European Court of Justice for a three day judicial dialogue with the President and Jugdes of that Court. This Dialogue involved judges of the East African Court of Justice and those of the South African Development Community.

The delegation of the ECOWAS Court also includes the Vice President and the other three judges of the Court.
The Republic of Senegal has joined the growing list of ECOWAS Member States that have designated their national authority for the enforcement of the decisions of the ECOWAS Court in line with the provision of the Article 24 of the 2005 Supplementary Protocol on the Court.

In a letter conveying the country's decision to the Court, the Republic of Senegal said that its Ministry of Justice will serve as the competent national authority for the enforcement as provided under Article 24 of the Protocol. Each Member State is expected to designate the entity responsible for the enforcement of the Court's decision in accordance with its applicable Rules of Civil Procedure.

The article vests Member States with responsibility for the designation of such an authority in each Member State. With this development, the Republic of Senegal has become the 10th Member State to designate such authority.

An elated President of the Court, Justice Edward Amoako Asante welcomed the development as a “critical step in addressing the vexed issue of the poor enforcement of the decisions of the Court which stands at 106 according to the records available at the Court.”

He said that another 11 unenforced decisions are outstanding against the ECOWAS Commission and institutions of the Community.

“Designation of the national authority is an important first step in the process of enforcement and we need to remain engaged with the Member States to resolve the knotty issues that have also contributed to the low rate of enforcement,' the Court's President added.

Justice Asante expressed optimism that the remaining five Member States, that have not designated their national authority, will key into the current momentum generated in favour of designation, starting with the 2019 decision by the Republic of Ghana to designate its enforcement authority.

Senegal joins the other Member States of Burkina Faso, Cote d'Ivoire, Guinea, Ghana, Mali, Nigeria and Togo, The Gambia and Niger that have designated their national authorities. The letters conveying the decision of the last two was received by the Court in May 2023.
The ECOWAS Court of Justice organized a ten-day capacity building program at Nassarawa State near Abuja aimed at reinforcing their organizational development skills for greater efficiency in the service of the Court for twenty of its staff.

The President of the Court, Justice Edward Amoako Asante said the exercise was part of the management's strategy for improving staffs' Corporate productivity to enable them cope with the evolving work environment and was the outcome of the periodic systematic review and evaluation of the activities of the organization for organizational growth and development.

In particular, he said this followed management's impact assessment of the staff training of the last five years which showed that staff training centered on job specifics and departmental aspirations at the expense of the variables of organizational development, corporate mandate, vision and mission.

He further said that through its strategic plan, the Court had developed its core values which are independence, impartiality, integrity and accessibility which were never considered in the work patterns and core values identified as important tools and institutional instruments to streamline and facilitate the actualization of an organizational vision.

During the training, two themes were developed according to the department of deployment of the staff with the first centered on "Communication Strategies for Change Management" for Registry, Research, Communication and Administration Divisions. This has the objective of equipping the participants to understand the value of communication in change management, its impact on the organization and the role of staff in the successful implementation of new policies.

The second theme, for Accounts and Protocol Divisions, aimed at "Improving Work Ethics and Attitudinal Change" and will provide participants with practical strategies and techniques to improve attitude and beliefs hindering personal and professional growth.

The training, which was being conducted by a human resource management team from Teach House, held from April 23 to May 5, 2023.
The Women forum of the ECOWAS Court of Justice is organising a day-long training on « Career progression and sexual harassment in the workplace, » on the second day of its two-day elaborate activities to mark the 2023 International Women's Day.

The training, which took place Thursday, 9th March 2023, was facilitated by a team of the United Nations Women staff led by the Ending Violence against Women Specialist.

The opening of the training was, on Wednesday, 8th March 2023, marked by goodwill messages from the Nigeria's National Human Rights Commission, the ECOWAS Parliament, the ECOWAS Commission, the UN Women, the Director of the ILO Country Office, the Representative of the host government and statements from the Patron of the Forum, Justice Dupe Atoki and the President of the Court, Justice Edward Amoako Asante.

In her speech at the opening, the President of the Forum, Mrs Frances Ibanga said the event was in furtherance of its role to engage in humanitarian actions, advocate for and promote gender equality as well as promote and campaign for the implementation of International, Regional and National legal frameworks for ensuring gender equality.

In this regard, she said the forum has embarked on sensitization campaigns to enlighten the public and indigent women on their rights and access to the Court.
She explained that this year's observance, which is being celebrated under the theme: «Digit ALL: Innovation and Technology for Gender Equality,» was designed to «celebrate the women who are championing the advancement of transformative technology and digital education.» Moreover, the theme explored the importance of protecting the rights of women in digital spaces in a bid to address ICT gender-based violence.

«As technology advances, we see a wide digital divide between genders and this digital divide has become the new face of gender inequality» she stated noting that these growing inequalities were becoming increasingly evident in the context of digital skills and access to technologies, » she added, citing the UN data for 2022 which showed that 37 per cent of women did not use the internet while only 22 per cent of positions in artificial intelligence are held by women.

She blamed this on the exclusion of women from technological advancements, due to structural issues like poverty, gender discrimination and digital illiteracy and called for the strengthening of the campaign to address this gap by reemphasizing the value of the pursuit of gender equality with emphasis on the creation of equal opportunities to all human, irrespective of gender noting that «the rise of women is not about the fall of men».

In his welcome remarks, the Vice President of the Court, Justice Gbéri-Bê Ouattara described the event as 'historic,' and traced its origin to a demonstration in 1909 for women's suffrage organized by the National Women's Committee of the American Socialist Party, adding that the dynamics has changed over as the challenges and concerns as well as obstacles to the fulfillment of women have multiplied.

Justice Ouattara, who represented the President of the Court, Justice Edward Amoako Asante at the ceremony, said that the observance has transformed into a day of action, awareness and mobilization dedicated to the fight for women's rights, equality and justice.

Regardless of the achievements and progress of the campaign, the Vice President said “we must not forget that everywhere in the world, every day and at every moment, without distinction of race, religion, opinion or thought, while many women still live in precarious conditions, are mistreated, humiliated, and sometimes abandoned with their offspring by irresponsible men without access to the bare minimum.
Justice Ouattara assured the women of the Court’s of the unwavering commitment to the objectives behind the observance such as magnifying women and reminding us that the fight continues for as long as there exists one girl and one woman whose rights are ignored, flouted or violated.

In her goodwill message, Nigeria’s Minister of Women Affairs, Dame Pauline K. Tallen, said that a gender responsive approach to innovation, technology and digital education can increase the awareness of women and girls regarding their rights and civic engagement. In the speech which was delivered by Mrs. Gloria Onwuzirike, the Minister noted that advancements in digital technology offer immense opportunities to address development and humanitarian challenges, and to achieve the 2030 Agenda’s Sustainable Development Goals (SDGs).

She noted that the opportunities offered by the digital revolution also risked perpetuating existing patterns of gender inequality, adding that growing inequalities is becoming increasingly evident in the context of digital skills and access to technologies, with women being left behind as the result of this gender divide.

The Minister therefore called for inclusive transformative technology and digital education for a sustainable future.

In her keynote address, a judge of the Court, Justice Dupe Atoki stressed the value of digital infrastructure in contemporary life and expressed regret over the marginalisation of women in digital education and urged them to acquaint themselves of the new technology and assuring them that they will overcome through determination and consistently.

There were three presentations during the afternoon session of the opening day. The first presentation was on the theme: Technological innovation and education in the digital age for achieving gender equality and empowerment of women and girls by Mrs Elizabeth Wuraola Kolade, a Cyber Security Professional. The second paper was on the Strategic positioning of women in the digital Age by Mrs. Titi Ojo, a business Consultant and Entrepreneurship Development Practitioner while the third paper on Gender Equity in the Workplace was delivered by a representative of the UN to Nigeria.

The vote of thanks was delivered by Justice Sengu Mohamed Koroma of the Court who thanked the Women's Forum and the presenters for their insightful presentations and contributions. He concluded with the expression: «Aluta Continua!», in encouraging all the women in the world never to give up but to continue fighting for their rights as human beings.
PICTURES FROM THE 2023 INTERNATIONAL WOMEN’S DAY
Two Orphanages and a group of widows in Nigeria’s Nasarawa State, on April 6, 2023, received food and gift items from the Women Forum of the ECOWAS Court of Justice, to mark the Easter celebration and the Ramadan fasting period.

The Women Forum comprising the female staff of the Court donated the items during their visits to Facado Orphanage, New Karu and Alpha and Omega Orphanage, Aso, both in Nasarawa State and thereafter, presented food items to indigent women especially widows residing in the State.

According to Mrs. Frances Ibanga, Chairperson of the Women Forum, “This year, the Women Forum is embarking on numerous charity visits in line with its 2023 planned projects. This is just the beginning of such visits.”

Mrs Ibanga accompanied by other members of the executives and staff of the Court encouraged the recipients to remain hopeful, prayerful and hardworking.

The recipients expressed their gratitude and also prayed for members of the Women’s Forum.

The Women Forum of the ECOWAS Court of Justice also organised personal development programmes for its members and other staff of the Court. It recently partnered with UN Women to organize a workshop for staff of the Court to mark the 2023 International Women’s Day.
The Court, however, dismissed claims of the violations of fundamental rights and the right to fair treatment and security alleged by the company. The Court also dismissed claims of violation of rights to security, property, work and to development filed by the second Applicant, Angela D. List, the sole shareholder of Algom Resources.

The two Parties were also ordered to bear their respective costs.

In suit no ECW/CCJ/APP/55/21, the first Applicant, Algom Resources Limited, a limited liability company incorporated under the laws of Sierra Leone on 7 June 2016 accused officials of the government of the Republic of Sierra Leone of engaging in malpractice that cost the company its gold mining licence and significant amount in investment.

The company said that it was granted a four year gold exploration licence from 9th January 2017 over the Baomahun exploration area and claimed it spent 4.8 million US dollars on exploration activities during which it discovered gold in commercial quantities.

In order to obtain a large-scale mining license from the government of Sierra Leone, the company said it needed an Environmental Impact Assessment (EIA) License which it expected to obtain from the Environment Protection Agency, Sierra Leone (EPA-SL).

It however claimed that the Agency gave a negative recommendation on the grounds that the project was located within a protected forest reserve and needed clearance from another agency, the National Protected Area Authority (NPAA). Since then, the Applicant added, it has been unable to secure the EIA due to numerous administrative hindrances, which it labelled “fraudulent”.

The first Applicant said it applied for a new large-scale mining license on 25 February 2021 but was surprised that a notification was published in a Gazette informing the public that a company named FG Gold Limited had obtained an Environment Social and Health Impact Assessment Report over the same Baomahun Concession.

Algom Resources argued that by virtue of Section 108(4) of the Mines and Minerals Act, the Respondent State ought to have given it the opportunity to make proposals that will resolve the grounds for the refusal.

The Applicant contended that the purpose of that Section is to give applicants of large-scale mining licenses the opportunity to remedy defective or incomplete applications before a final decision is made on the application. Only failure by the Applicant to remedy or complete the application after being notified that there will be an absolute rejection.

Algom Resources said it made several enquiries without response about FG Gold, more particularly, to ascertain the reasons why FG Gold's application took precedence over its own application and described the government's decision as arbitrary and a “…willful disregard of due process of law, an act which shocks, or at least, surprises, a sense of judicial propriety”.

The second Applicant in the suit, Angela D. List held that, by arbitrarily depriving the first Applicant of a mining license, the Respondent rendered her property useless, and her investments worthless.

She described the decision as a violation of her right as well as those of the company's employees as it not only subjected them to embarrassment and financial difficulties, but also the possibility of many of the workers not
ECOWAS COURT DISMISSES CASE IN SUIT BROUGHT BY FAMILIES OF 2007 HELICOPTER CRASH IN SIERRA LEONE

The ECOWAS Court on 9 May 2023, dismissed a case brought by the families of the victims of the 2007 crash of Paramount Airlines helicopter in Sierra Leone for their failure to lead evidence to show their relationship with the victims.

Twenty two people were killed, while only one of the passengers survived the crash of the helicopter operated by the airline between the country’s capital, Freetown and the airport in Lungi when the helicopter crashed at the airport.

Delivering the Court's judgment, Justice Edward Amoako Asante said that while indirect victims were allowed to bring claims for human rights violation, especially where the direct victims are dead or could not bring claims, the indirect victims must provide evidence of their family or other close relationship to the direct victim(s).

Justice Asante added: “No marriage certificates, birth or adoption certificates, testamentary documents, or even sworn affidavits or statutory declarations were submitted to the Court to establish Applicants' relationships to the crash victims, and therefore, their statuses as indirect victims for admissibility purposes.”

The Court had earlier dismissed an application by the State of Sierra Leone to dismiss the case as status barred on the ground that action for human rights should be brought within three years.

But citing Article 9(4) of its Protocol and its rich jurisprudence, the Court ruled that it had jurisdiction to determine cases of human rights violations, for which no statute of limitations is provided.

In suit ECW/CCJ/APP/13/20, the Applicants claimed that the State of Sierra Leone was negligent and therefore responsible for the crash of the M18 helicopter registered under number 9L LBT in which 22 of the 23 passengers died, including 13 Togolese citizens. The latter were members of an official delegation which had officiated a qualifying match for the Africa Cup of Nations competition involving Togo's national football team.

Among the victims were four Gabonese, two French and a Senegalese.

The Applicants relied on the report prepared by a civil aviation expert commissioned by the Sierra Leone for their claim, a report that was officially transmitted to the Togolese authorities and showed that aircraft was not airworthy

According to them, the investigator asserted the shared responsibility of the Ministry of Transport and Communications, Paramount Airlines and the Autonomous Airport of Sierra Leone in his report. The applicants contended that the airline did not comply with either ICAO standards and recommendations or Sierra Leone's civil aviation regulations, which explains the condition of the aircraft.

They claimed that the Ministry of Transport and Communications should not have allowed the helicopter to fly because it had not met at least ten of the critical conditions identified during a recent technical audit carried out by the Organization of the International Civil Aviation (ICAO). Furthermore, they quoted the report as having claimed that none of the three member crew for the flight-captain, co-pilot and flight engineer, were licenced or possess a valid medical certificate.

Moreover, the Applicants said that the delay in rescue and the Cont’d on page 34
THE ECOVAS Court of Justice on Wednesday, 31st May 2023 ordered the Republic of Burkina Faso to pay 50,000,000 (Fifty Million) CFA as compensation to a retired civil servant, Mr. Kam Sibiri Eric, for the moral damages he suffered following his dismissals 20 years ago allegedly for 'breach of the duty of discretion.'

Delivering judgment in the suit, Justice Ricardo Monteiro Gonçalves, the judge Rapporteur held that the Respondent State violated the Applicant's right to an effective remedy pursuant to Articles 7(1) of the African Charter, 14(5) of the ICCPR and 8 of the Universal Declaration of Human Rights. The Court also held that Applicant's right to be tried within a reasonable time by an impartial tribunal by the Respondent was also violated in accordance with Articles 7(1) and 26 of the African Charter, 9 and 14(3)(c) of the ICCPR and 8 of the Universal Declaration of Human Rights.

In suit no. ECW/CCJ/App/53/20, the Applicant said he worked as the Head of the Legal Affairs and Research Division of the Mediator of Faso until November 2002 when his appointment was terminated by decree for the breach of the duty of discretion.

He averred that several failed steps were taken to get the government to reconsider its action including seizing the administrative court in Ouagadougou which after four years on 8th May 2007 annulled the decree and ordered his reinstatement.

But the Faso mediator appealed the judgment before the Council of State, which reversed the contested judgment and rejected as being ill-founded the request for annulment of the disputed decree.

In response to the decision of the Council, the Applicant lodged an appeal on points of law on July 6, 2007 which is still pending before the Council.

Faced with situation, the applicant, who was represented by his counsel, Mr. Naboswindé Barthélémy Zongo addressed the ECOWAS Court asking it to hold the government in violation of his human rights and to pay him the sum of seventy-nine million nine hundred and twenty-nine thousand seven hundred (76,929,700) CFA francs as damages.

He averred that by delaying the case for more than 13 years, a situation he construed as a refusal to hear his appeal, the Council of State violated his right to fair and timely trial contrary to the country's obligation under the various international instruments to which it is signatory, particularly the Universal Declaration of Human Rights.

He also cited the preamble of the country's constitution which provides under Article 8 that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

Unfortunately, the applicant pointed out that although the appeal in cassation is instituted by law n°15-2000/AN relating to the Council of State, it is clear that the judicial body did not examine the case.

He contended that effective remedy, even if it exists in law, has been rendered non-existent in this case as a fair trial is one that is held within a reasonable time. In the present case, he said the Council neither communicated with the Applicant on the case nor notify him of the status describing this as a violation of a fair trial within a reasonable time, especially
when it comes to restoring a civil servant to his administrative position.

The Applicant relied on Article 10 of the Universal Declaration of Human Rights which stipulates that: "Everyone has the right, in full equality, to have his case heard fairly and publicly by an independent and impartial, who will decide either on their rights and obligations or on the merits of any criminal charges brought against them. »

Among the other international instruments relied on which the country is signatory, are the International Covenant on Civil and Political Rights in its article 2.3 paragraph a and paragraph b and the African Charter on Human and Peoples' Rights in its article 7 (1) and (2).

The Applicant said the violations caused him moral and psychological damages and that the inaction of the Council on his appeal, despite several unanswered correspondances, demoralized him while his premature retirement adversely affected him financially.

During the judgment, the Republic of Burkina Faso was not represented while Mr Sibiri's lawyer was represented by Barthelemy Zongo.

Also in the three member panel on the case were the president of the Court, Justice Edward Amoako Asante, presiding, and Justice Dupe Atoki.

ECOWAS Court Dismisses Case in Suit Brought by Families of 2007 Helicopter Crash in Sierra Leone

malfunctioning of emergency equipment caused the death of many passengers.


The Applicants argued that the families of the victims, who have been enduring difficult living conditions, did not benefit from a fair trial to assert their rights and that a dedicated court should have been set up to hear the case and decide on compensation.

Finally, they expressed disappointment at the State of Sierra Leone, which had committed to paying the sum of 100,000 US dollars to the families since 2013 but has not till date kept its promise.

They are praying the Court to declare Sierra Leone responsible for the violation of the rights as mentioned above and to order it to pay the sum of two hundred million (200,000,000) CFA francs, i.e. a total of four billion (4,000,000,000) of FCFA for compensation as well as the sum of (100,000,000) FCFA to the beneficiaries of each victim, i.e. the total sum of Two Billion (2,000,000,000) FCFA for damages suffered.

In its response, the State of Sierra Leone argued that Paramount Airlines was a private company and that it could not be held responsible for its actions.

The Respondent also submitted that the report on which the applicants relied for its claims was not signed and was, therefore not original. The State therefore urged the Court not to rely on accusations based on an unauthentic report and to ignore the accusations and dismiss the case.

The panel also comprised Justices Dupe Atoki and Ricardo Cláudio Monteiro Gonçalves.
The ECOWAS Court of Justice on Wednesday, 7th June 2023 ordered the immediate release of ten people arrested by officials of the government of the Republic of Togo during a public protest in December 2018 calling for the implementation of political reforms contained in a Global Political Agreement (GPA) signed in 2006 by the ruling party, the opposition and the civil society.

The Court also ordered the State to pay each of the Applicants, the sum of five million CFA for their prolonged detention and treatment while in custody in the decision read by Justice Gberi-Be Ouattara, the judge rapporteur in the case.

The Court said in its judgment that the compensation would have been higher if the applicants had led evidence of torture alleged in their initiating application filed before the Court.

The agreement, which was the subject of the 2018 demonstration, was reached by the representatives of the ruling party, opposition political parties and the civil society. The demonstrators had also called for the implementation of the recommendations of the Truth, Justice and Reconciliation Commission (CVJR), both of which were aimed at resolving the crisis which arose in the aftermath of the death, on 5 February 2005, of former President Gnassingbé Eyadéma.

The respondent State was not represented in Court.

After the judgment, the lawyer to the applicants, Mr. Raphael Kpande-Adzare expressed gratitude to the Court for the decision which will allow his clients to be freed, especially as one of the demonstrators, who was arrested at the same time, died the day before.

Moreover, the Applicants alleged that, despite showing the marks of torture and scars of ill-treatment to the investigating magistrate, the latter continued the proceedings, ignoring the allegations. They said that on appeal to the “Chambre d’accusation de la Cour d’appel”, a court of second instance, the Court ordered the investigating magistrate to direct the competent authority to conduct an investigation into the allegations, which was not complied with within the time limit.

They, therefore, filed suit ECW/CCJ/APP/45/22 in the ECOWAS Court against the government for the violation of their rights to physical and mental integrity, fair trial and presumption of innocence.

Among their prayers, was for an order of the Court acknowledging that their rights to protection against torture and cruel, inhuman and degrading treatment, arbitrary detention were violated.

They also urged the Court to order the payment of the sum of 1,250,000,000 FCFA to each of them including 500,000,000 FCFA for damages suffered because of acts of torture and cruel, inhuman and degrading treatment.

The Togolese Republic did not file any response.

Also on the panel were Justices Edward Amoako Asante presiding and Dupe Atoki.
the ECOWAS Court of Justice on Friday, 9th June 2023 ordered the Republic of Guinea to pay 102,500,000 (One hundred and two Million five hundred thousands) CFA to 205 Guineans in the Republic of Senegal as compensation for the moral damages they suffered following their exclusion from participation in the December 2020 elections in their country.

These include the legislative elections, constitutional referendum and presidential elections scheduled in December 2020 which they expected to participate through diaspora voting at the country’s Embassy in Senegal.

The Applicants Abdoul Gadiri Diallo and 258 others accused the State of Guinea of violating their human rights, in particular their right to participate in the management of public affairs in their country, their right to equal and non-discriminatory treatment and their right to effective remedy.

Delivering judgement in the suit, Justice Gbéri-Bè Ouattara, the Judge Rapporteur noted that after examining the documents filed by the Applicants, the Court counted two hundred and five (205) applicants instead of the two hundred and fifty-nine (259) contained in their application, with each applicant entitled to 500,000 (five hundred thousand) In arriving at the decision, the Court agreed with the applicants that their right to take part in the management of the public affairs of their country has been violated by the Respondent, including their right to equal and non-discriminatory treatment. The Court noted that “by not taking the necessary measures to guarantee security and by instead putting an end to the census operations of Guineans residing in Senegal while this same operation was continuing everywhere else and in Guinea, the Respondent violated the rights of the applicants as provided for by the texts invoked”. However, the Court held that the Respondent did not violate the Applicants' right to an effective remedy saying that the argument presented by the applicants relating to the lack of an effective remedy lacks relevance and noted that the respondent has created all the necessary jurisdictions, which are functional and available.

Before ruling on the merits of the case, the Court declared it has jurisdiction to hear the matter and declared the application admissible. It however held that the request for expedited hearing of the suit is devoid of purpose while the request for interim measures is also without object.

The Court had also dismissed as ‘ill-founded,’ the counterclaim of the defendant for the payment of a symbolic Franc as compensation and therefore dismissed it.

In the initiating application filed before the Court’s Registry on 12th March 2020, the applicants said that in order to exercise the right to vote in the Republic of Guinea, a citizen must have a voter's card issued by the Independent National Electoral Commission (CENI) and be at least 18 years of age at the close of the electoral list. Citing the country’s constitution, they claimed that registration on the electoral list is a right and a duty for all Guineans. They said that while the CENI had set 28th November 2019 as the date for the registration in the country’s Embassies and Consulates and 16th February 2020 specifically for the legislative elections, it was only on 29th November 2019 that the State of Guinea requested the assistance of the Senegalese authorities to put in place the requisite logistics and security measures for the registration, a day after the scheduled start of the registration exercise. Moreover, the applicants noted that to
The ECOWAS Court of Justice on Thursday, 8th June 2023 dismissed a suit brought by a Non-Governmental Organisation (NGO) alleging the mismanagement, by the government of Sierra Leone, of 14 million dollars of the funds provided by donors to enable the country cope with the 2014 Ebola outbreak in the country.

The Center for Accountability and the Rule of Law (CARL), which filed the suit along with two Sierra Leonean’s, Hawa Jalloh and Fatmata Sesay, claimed that the action of the government resulted in the avoidable death of Sierra Leoneans, thereby violating the right to life and health of the applicants. But delivering the judgment, Justice Gberi-Be Ouattara, the judge rapporteur, said based on the documents filed before it, two of the applicants are still alive and therefore 'cannot validly maintain that a serious and irreversible attack has been made on their right to life.'

Moreover, it held that “the Center for Accountability and the Rule of Law” (CARL) could not mention a single name of the victims it represents and whom it said are fourteen thousand (14,000) in number including four thousand (4,000) people who died and had not, “added to the file, nor provide any irrefutable proof of the death of an individual as a result of contamination by the Ebola virus, “such as a medical certificate indicating the cause or type of death of the deceased.

In particular, the Court also rejected the violation of the right to health alleged by the Applicants as “Hawa Jalloh and Fatmata Sesay have not proven that they are nurses and that they have been infected by the Ebola virus if only by the production in the file of the procedure of their professional cards and medical certificates to corroborate their allegations.” The Court therefore held that the State was not in violation of the rights of the applicants in the suit and rejected their claims for the payment of damages, explaining that in support of their allegations, they had not adduced any tangible evidence attesting to the veracity of their allegations before the Court.

It ordered the applicants to bear their costs. Before deciding on the merits of the case, the Court previously rejected the claim of the respondent that it has no jurisdiction to hear the matter and therefore declared the application admissible. In suit no: ECW/CCJ/APP/07/18, filed before the Court on January 23, 2018, the Applicants, the CARL and Awa Jalloh and Fatmata Sesay, both Sierra Leonean nurses alleged that the Government of Sierra Leone lacked the transparency in the management of the funds made available to it to fight the Ebola epidemic which shook the country in 2014.

They contended that the lack of transparency, coupled with nonchalance in the treatment of infected people led to enormous loss of lives, including that of health workers. They further alleged that 14,000 Sierra Leoneans were contaminated by the virus while 4,000 of the victims died, partly because of the late response of the State to the treatment of those infected with the virus while efforts were not made to control its spread through the closure of the borders.

Moreover, they claimed that the mismanagement of the funds resulted in financial losses, and that the government did not take action despite the report of an audit by a government agency released in February 2015 which confirmed the loss of 14 million dollars due to a misappropriation of the funds contributed by donors to deal with the outbreak and the decline in the quality of health service.

The Applicants, who were represented by Mr. Oludayo Fagbemi of the Banjul-based Institute for Human Rights and Development in Africa (IHRDA) relied on some international legal instruments relating to the protection of human rights, mainly Articles 1, 4 and 16 of the African Charter on the Rights and Duties of Peoples (
Court Orders The Republic of Sierra Leone to pay 200,000 USD to Mining Company for Violation of Right to Property

being able to fend for their families and dependents, therefore infringing on their right to health, both physical and mental.

The Applicants urged the Court for USD 50,000,000 in exemplary damages, another USD 20,000,000 as damages for anxiety and embarrassment and USD 500,000 as costs.

In response, the Respondent denied all the allegations, pointing to the fact that the Exploration License of Algom Resources expired in 2021, therefore extinguishing all their mining rights in Sierra Leone. It also contended that the company’s application for a large-scale mining licence made in February 2021 was treated fairly and denied that the government favoured FG Gold and challenged Algom Resources to provide evidence to the contrary.

On the claims of destruction of property, the Respondent State argued that the first Applicant did not cite any provision that prevented the removal of its equipment and said that by the government’s letter dated 25 March 2021 which was acknowledged by the company, the Director of Geological Survey reminded the first Applicant of their statutory obligations to vacate the licensed area.

On the claims by the second Applicant, the Defendant said it had no direct dealing with her, arguing that the damage suffered by the company and its shareholder did not mean that both are entitled to compensation as “although two separate entities may have suffered from the same wrong, it is only one entity whose rights have been infringed”.

The Respondent contended that the applicants decided to bring in the shareholder as a party in order to satisfy the threshold for human rights violation.

The Respondent therefore urged the Court to dismiss the case as there were no violations of a recognized right established by law. It also prayed the Court for an order to dismiss the second Applicant locus standi as a party to the action. The Respondent also asked for 100,000 US dollars as costs.

On the panel were Justices Edward Amoako Asante (presiding), Gberi-Be Ouattara and Dupe Atoki.
COURT AWARDS 15 MILLION CFA TO GUINEAN LAWYER OVER HIS UNLAWFUL ARREST BY SECURITY AGENTS IN 2020

The Community Court of Justice, on Friday, 9th June 2023 ordered the Republic of Guinea to pay Fifteen Millions (15 000 000) FCFA to a Guinean lawyer as compensation for the moral damages suffered for the violation of his rights following his arrest along with seven of his clients by agents of the State in 2020.

The Applicant, Mamoudou Sane told the Court that while exercising his professional obligation and without any legal basis, he was arrested with his clients on the instruction of the Central Director of the Judiciary Police and led under escort to the département de la Police Judiciaire (DPJ) where they were detained before his release after the discovery of his identity as a lawyer. He further told the Court that following the 24th February 2020 arrest, he filed a complaint against the Central Director of the Judicial Police of the Respondent, which has remained untreated by the Attorney General of the Conakry Court of Appeal. Consequently, he was forced to file an action before the ECOWAS Court for the violation of his fundamental rights and freedom by the Republic of Guinea, including his right to fair trial through his lawyer, Pepe Antoine Lama.

Delivering the Court's judgment in the suit, the judge Rapporteur, Justice Ricardo Claudio Monteiro Gonçalves, recalled the admission by the respondent of the arrest and detention of the applicant, describing this as a violation of his right to liberty and security, as provided for in Articles 6 of the African Charter, 9(1) of the ICCPR and 3 and 9 of the UDHR.

The Court noted that the respondent had dismissed the arrest and detention as “motivated by mere confusion with his clients and that as soon as the Applicant was released as soon as his status was established.” Consequently, the Court held that “in the absence of any legal basis, this Court considers that the arrest of the Applicant was arbitrary and illegal, since the police authorities had to take care in advance who they had to arrest and why the arrest should have been made, therefore, acting otherwise violated the Applicant's right to liberty and security under Articles 6 of the African Charter, 9(1) of the ICCPR and 3 and 9 of the UDHR.”

The Court also declared that the Respondent violated the Applicant's Right to due process, as provided for in Articles 7(1)(d) of the African Charter, 14(5) of the ICCPR and 8 of the UDHR, noting that it has been 39 months since the applicant filed the complaint on 24th February 2020 with the Respondent not following up as should have been the case.

“This Court is certain that such a time delay is absolutely excessive to obtain a simple order of authorization with a view to the normal progress of the process, no matter how large the volume of cases that enter the Attorney General's Office of the Defendant on a daily basis,” the Court noted, adding that “the passage of all this time also demonstrates the lack of interest on the part of the Respondent in the investigation to which, moreover, he is obliged, and the normal follow-up of that process, thus constituting a violation of the right to a fair trial to which the Applicant is entitled, pursuant to Article 7(d) of the Charter.”
The Court therefore ordered the Respondent to initiate, without delay, proceedings against the perpetrators of the acts for which the Applicant was a victim, with a view to secure justice for the applicant. However, the Court declared groundless the other claims made by the Applicant. Citing Article 66(2) of its Rules, the Court ordered the Respondent will bear the costs of the proceedings. The Applicant had asked for an order of the Court to compel the Republic of Guinea to pay him the sum of two hundred (200) Million CFA as compensation for the damaged suffered and another order to compel the respondent to treat his complaint against the office of the Central Director of the Judicial Police.

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Court Awards 102,500,000 CFA Francs in Favour of 205 Guineans in Senegal for their Exclusion from Participation in the Country’s December 2020 Elections

register, a citizen must have a valid passport, contrary to article 19 of the revised electoral code which requires different forms of identification such as an identity card, passport, the military booklet, the civil or military pension book, the student or pupil card for the current year, the consular card or a certificate issued by the district head of the district and countersigned by two notables. The Applicants alleged that the imposition of these conditions was to reduce the number of registered voters as it is impossible to renew passports in Senegal without travelling to Guinea. They declared that on December 3, 2019, the Embassy of Guinea in Senegal unilaterally decided to suspend the installation of all the Administrative Commissions for the Establishment and Revision of the Electoral Lists on the pretext that "this measure aims to finalize the administrative arrangements with the Senegalese authorities," explaining that this decision should in principle have come from the CENI. They said that on December 16, 2019, the CENI definitively suspended the registration and revision of the electoral lists on Senegalese territory even though Guineans in Canada and France, were registered, adding that the suspension of the exercise in Senegal, which denied them access to an electoral card and which would have allowed them to vote, was a violation of their rights. The applicants, who were represented by their counsel, Mr. Drame Alpha Yaya, described the suspension as illegal and a violation of their right to participate in the elections in disregard not only of the Guinean constitution but also in defiance of Articles 1g 7, 33 of the Protocol on Democracy and Good Governance of ECOWAS, Articles 21 of the Universal Declaration of Human Rights; Articles 3 and 13 of the African Charter on Human and Peoples' Rights and 25 of the ICCPR.

The applicants stated that this exclusion from the electoral process caused them harm and therefore urged the Court to order the State of Guinea, among others, to pay each of them Five million (5,000,000) CFA francs which made of One billion two hundred and fifty million (1,295,000,000) CFA francs for all of them. They also asked the Court to order the State of Guinea to pay all costs in the sum of twenty-three million (23,000,000) CFA francs. But the Republic of Guinea, represented by the State counsel, Mr. Joachim Gbifimou urged the Court to declare that the violations of human rights invoked by the applicants have not been established and therefore asked that the claims of the applicants be dismissed. The Court also ill-founded the counterclaim made by defendant for the payment of a symbolic Franc as compensation and therefore dismissed it.

Also on the panel for the case were Justices Edward Amoako Asante (presiding) and Dupe Atoki.