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COURT PRESIDENT CALLS FOR URGENT ACTION TO RESCUE THE REGION'S DEMOCRACY

The President of the ECOWAS Court of Justice, Honorable Justice Edward Amoako Asante has called for an urgent reflection of the region's nascent democracy so as to take measures for arresting the glaring lapses exemplified by bad governance, failure to deliver on the dividends of democracy, unfair elections and the quest for unconstitutional tenure elongation.

In a message to the opening of the second ordinary session of the fifth legislature of the ECOWAS Parliament, Justice Asante blamed these gaps for the "creeping incursion of the military into the region's politics," which is not only a 'misnomer' but a demonstration of the "deficiency of our politics."

These manifestations, he added, should "challenge us to reflect on the trajectory of our democracy and ascertain whether it is imbued with the efficacy and capacity to deliver good governance that satisfies the socio-economic needs of our people.

"It is undeniable that except appropriate action is taken to arrest the creeping military incursion into our politics, democracy is under threat with implications for institutions such as the parliaments and the courts which call for collective action," he emphasized

The President noted that it is in recognition of the threat posed by these incursions to the region's fledging democracy that necessitated the Court's decision to focus the theme of its 2023 conference held in May 2023 in The



Justice Asante delivering his speech

Gambia on ECOWAS zero tolerance for unconstitutional change of government.

He added: "The ECOWAS Parliament provides an appropriate forum at the regional level to continue this conversation by revisiting the debate on the particulars of our democracy that was optimistically touted as the panacea for delivering socio-economic growth and development of our people in order to equip them for a competitive international economic environment."

Despite the current challenges with the region's democratic progression, Justice Asante acknowledged that it 'remains the best form of government that requires the collective effort of the leadership and followership to work'.



Justice Asante (2nd right), Dr Touray (middle) and Dr Tunis (2nd left) at the opening ceremony

Those invested with the responsibility under democracy, he noted, ‘must realize that it is an opportunity to serve and not indulge in hegemonic and authoritarian rule by a few for themselves’ as this result in state capture by a privileged few.

He therefore urged the ECOWAS parliament to provide the leadership to undertake the necessary engagement through the national parliaments ‘to interrogate our current democratic culture.’

This, he added, “will require reforms that will precipitate improvements in our democratic systems in order to end this creeping encroachment of the military into our democratic space,’ assuring that the Court will play its complementary role in consolidating the region’s democracy as the Community institution whose mandate helps to strengthen respect for human rights, accountability and political stability.

In this way, he said that the Court will be contributing to entrenching a culture of respect for the rule of law, accountability and political stability through fidelity with its mandate.

He therefore encouraged the Parliament to take the necessary steps, working with national parliaments, to ensure the seamless

enforcement of the decisions of the Court by Member State in order to strengthen community law and respect for human rights, transparency and accountability.

He also challenged the Parliament to take the leadership in ensuring that Member States internalize a culture of democracy, rule of law and good governance, adopt preventive measures for strict compliance and helping the states to commit to the establishment of ideals and reinforcement of agreed international protocols that promote respect for the rule of law. In addition, they should also strengthen the means for settling electoral disputes and the adjudication of electoral disputes.

Finally, Justice Asante suggested that the Parliament should support the States to take ownership of the region’s convergence principles as contained in the Supplementary Protocol on Democracy and Good Governance.

The current session of the Parliament will deliberate on the 2024 consolidated budget of the Community and consider the status of ECOWAS integration and development programmes.

It was preceded by the preparatory meetings of the Bureau of Parliament and conference of the committees’ bureau.

ECOWAS COURT VICE PRESIDENT COMMENDS COLLABORATION WITH UNHCR ON HUMAN RIGHTS INITIATIVES



Justice Ouattara (right) discussing with Mr Gnon-Konde

Honourable Justice Gbéri-Bè Ouattara, the Vice President of the ECOWAS Court of Justice, emphasized the significant impact of the longstanding partnership between the Court and the United Nations High Commissioner for Refugees (UNHCR) during the visit of the Commission's Regional Director on Tuesday, October 24, 2023.

Justice Ouattara expressed profound appreciation for the enduring collaboration with the UNHCR, which has led to the establishment of Memoranda of Understanding (MoUs). Addressing instances of human rights violations, he remarked, "The absence of justice and the violation of human rights are the main causes of humanitarian disasters."

In his address, Mr. Abdouraouf Gnon-Konde, the Director of the UNHCR Regional Office for West and Central Africa, headquartered in Dakar, echoed sincere appreciation for the fruitful partnership between UNHCR and the ECOWAS Court. He highlighted the significance of this

collaboration, citing numerous joint initiatives and fruitful exchanges of expertise.

During their discussions, both parties explored avenues for strategic collaboration aimed at addressing pressing human rights concerns, with a particular focus on the rights of refugees and internally displaced persons.

Moreover, they emphasized the imperative of strengthening their collaborative efforts to address the adverse effects of statelessness and population displacement in the sub-region.

Accompanying Mr. Abdouraouf Gnon-Konde were Mr. Hervé Kuate, UNHCR Senior Adviser responsible for liaison with ECOWAS and the Economic Community of Central African States (ECCAS), and Ms. Joan Ogu, Assistant Government Liaison Officer. Also in attendance were Dr. Yaouza Ouro-Sama, Chief Registrar of the Court, Mr. Fernand Kouassi, Executive Assistant to the Vice-President, as well as Court staff from the Protocol, Language Services, and Communication Divisions.

COURT PRESIDENT HIGHLIGHTS THE IMPORTANCE OF CITIZEN SENSITIZATION ON FUNDAMENTAL RIGHTS



Judges of the Court with the visiting Members of Parliament from the Kenya National Assembly

Justice Edward Amoako Asante, President of the ECOWAS Court of Justice, underscored the critical need for citizen awareness regarding their fundamental rights during a courtesy visit by Members of Parliament from the Kenya National Assembly on Thursday, November 9, 2023.

The delegation, led by Honorable Peter Orero, comprised members of the Committee on Regional Integration of the 13th Parliament of the Kenya National Assembly. They revealed that their visit was part of a comprehensive study tour on the operations of ECOWAS Institutions, including the Court of Justice, and various departments within the ECOWAS Commission.

Honorable Orero added that the committee's study tour involved different economic blocs, including the West African bloc - ECOWAS. He said that their visit to the Court aimed to gain insights into its operations, judicial activities, and programs. In response,

Justice Asante commended the delegation for their initiative, noting the importance of such engagements and knowledge-sharing opportunities. He provided an overview of the Court's establishment and highlighted its successes, particularly the expansion of its jurisdiction in 2005 through the amendment of the 1991 Protocol on the Court. He also explained that the 2005 Protocol empowered individuals to access the Court and allowed it to adjudicate certain cases of human rights violations within the region.

Furthermore, President Asante elaborated on the Court's jurisdiction over disputes relating to the free movement of goods and persons, as well as the right of establishment. He lamented instances, such as one in Ghana, where alleged breaches of freedom of establishment were not brought before the Court, attributing this to a lack of awareness among citizens about regional integration laws and their rights.

Justice Asante emphasized the need for citizen education on ECOWAS Laws and their



application, citing various legal instruments aimed at strengthening regional integration, including immigration and customs laws. He highlighted the Court's efforts in conducting media programs and sensitization missions across Member States to raise awareness about its activities and accessibility.

Regarding judicial activities, Justice Asante told the Kenyan Members of Parliament that cases brought before the Court were translated into the three official languages of the Community - English, French, and Portuguese - to facilitate the work of each judge in their respective language. He emphasized the Court's commitment to expeditiously concluding cases.

On funding, Justice Asante informed the visitors that ECOWAS institutions, including the Court, were financed through the Community levy contributed by Member States, underlining the Court's independence in its judicial functions.

Similarly, the Vice President of the Court, Justice Gbéri-Bè Ouattara, reiterated the Court's commitment to removing obstacles to economic integration in the West African Region, particularly concerning human rights

protection. He cited a case law on slavery and women's right to inheritance, where the Court affirmed the prohibition of slavery and upheld women's inheritance rights. He affirmed that any of the 15 Member States or institutions could approach the Court.

Other judges present included Justices Sengu Mohamed Koroma and Ricardo Cláudio Monteiro Gonçalves.

The Kenya delegation led by Honorable Peter Orero comprised Honorable Rael Kosiwai, Honorable Peter Salasya, and Honorable

"...the Vice President of the Court, Justice Gbéri-Bè Ouattara, reiterated the Court's commitment to removing obstacles to economic integration in the West African Region, particularly concerning human rights protection."

Justice Imale Mohammed. Also in attendance were Ms. Rose Chemas and Mr. James Nyongesa from the Kenya High Commission in Abuja, and Mr. Anthony Ogunjimi from the ECOWAS Commission.

ECOWAS COURT PRESIDENT VISITS NIGERIA'S NEW MINISTER OF FOREIGN AFFAIRS, PLEDGES CONTINUOUS COOPERATION WITH HOST GOVERNMENT



Justice Asante (left) giving Documentation on the Court to Minister Tuggar

The President of the Community Court of Justice, Justice Edward Amoako Asante on Thursday, 28 September 2023 paid a courtesy call on Nigeria's Minister of Foreign Affairs, His Excellency Yusuf M. Tuggar (OON) during which they discussed relations between the Court and the host government.

During the meeting, Justice Asante congratulated the Minister on his recent appointment and expressed gratitude on behalf of the Court for the provision of new office accommodations earlier in the year. He emphasized the importance of continued cooperation between the Ministry and the Court to fulfill their respective mandates within the context of the ECOWAS integration program.

“ We are optimistic that the symbiotic relations between the Ministry and the Court will flourish under your tenure for our mutual benefit and that of the Community,” the President said.

Responding, Ambassador Tuggar praised the Court for its exemplary contributions to jurisprudence which has made it an exemplar within Africa and has contributed immensely to West African integration, particularly through the exercise of its mandate in the interpretation of Community texts and development of Community law.

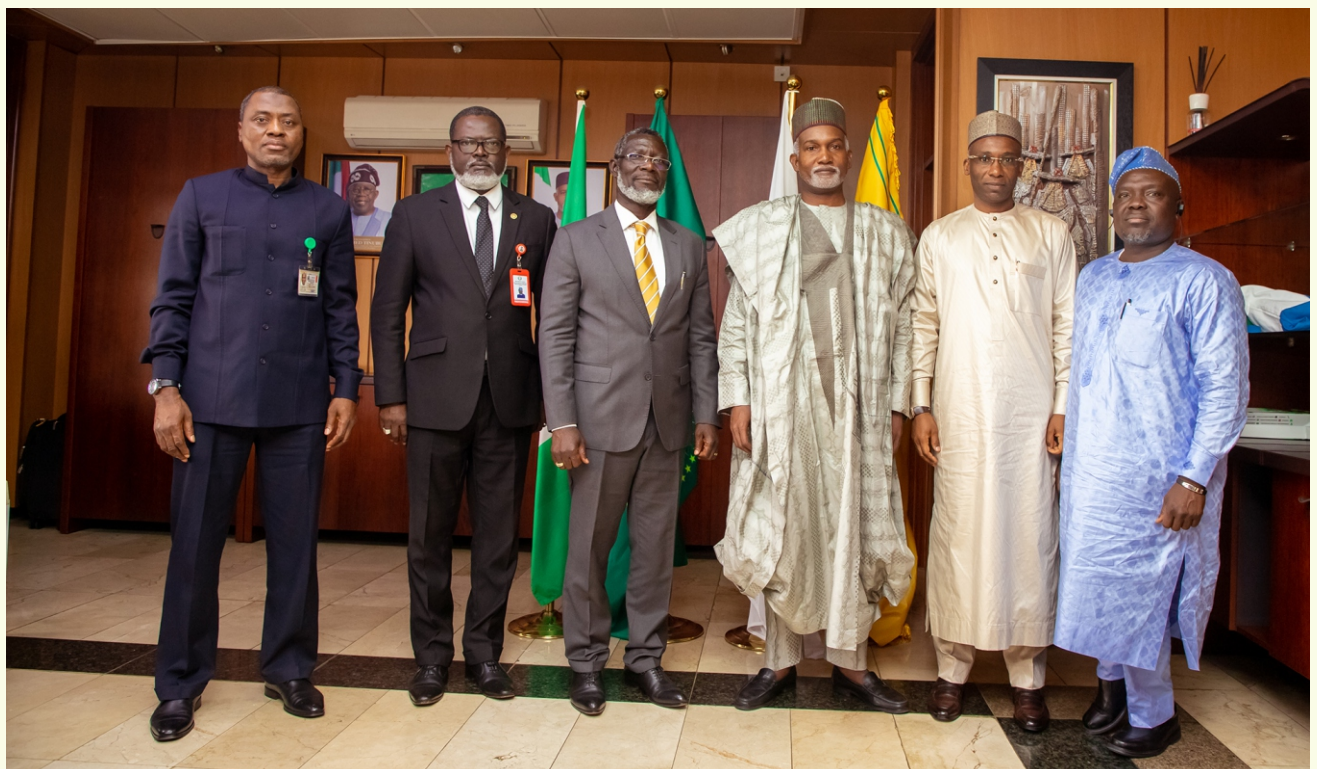
The Minister also commented on the urgent need for a broad vision for African progress based on home grown solutions to its problems that are implemented

“ We are optimistic that the symbiotic relations between the Ministry and the Court will flourish under your tenure for our mutual benefit and that of the Community, ... ”

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ndependently and devoid of foreign influence.

He underscored the need for self-reliance and innovation while extolling the value of democracy declaring that “there is no alternative to democracy,” for holistic progress.

In attendance during the visit were Ambassadors Nuhu Musa Sani, Ambassador of Nigeria to ECOWAS, Daudu Yakubu, who heads the ECOWAS Desk at the Ministry as well as Mr Horsfall Jacob. Staff of the Court.



COURT CONCLUDES ITS 15TH ADMINISTRATIVE AND BUDGET RETREAT IN NASARAWA STATE OF NIGERIA



Judges and Staff at the opening session of the 15 Administration and Finance retreat of the Court

The Community Court of Justice has ended its annual administrative and budget retreat with the adoption of the work programme of the Court for the year 2024 following discussions and deliberations during the various working sessions dedicated to various aspects of the Court.

The Retreat which brought together the Honorable judges and staff of the Court also adopted its draft budget for the implementation of the various activities proposed for in the work programme for the year 2024.

It is expected that in the coming year, apart from its normal court sessions held at its Abuja headquarters, the Court will also hold its traditional activities such as the International conference, the External Court session and the sensitisation programme to enhance access to justice and its visibility.

Other activities contained in the work programme include, training of lawyers and judges of ECOWAS Member States on the rules of the Court, the harmonisation of the texts of the Court as well as various activities for the development of Community law.

Participants at the five-day retreat also made some recommendations aimed at strengthening and improving the efficiency of the various departments of the Court, particularly, in the areas of Communication for increased visibility for the Court and to enhance their support for the Judges.

The Retreat also recommended, among other things, that the Court engage with the five Member States that have not appointed their focal points for the execution of Court's decision to encourage them to do so in addition to working with the judicial Council of the Community to facilitate the execution of its decisions.

"...that the Court engage with the five Member States that have not appointed their focal points for the execution of Court's decision to encourage them to do so in addition to working with the judicial Council of the Community to facilitate the execution of its decisions."

In his closing statement, Justice Edward Amoako Asante, President of the Court, commended participants for demonstrating professionalism in their contributions during the presentations and discussions which contributed to the success of the retreat.

The President, who was represented by the

Vice President, Justice Gbéri-Bè Ouattara, assured that the Court takes seriously its assigned task within the Community's integration architecture.

The Vote of thanks was delivered by Justice Dupe Atoki who thanked all participants for their commitment during the session, noting that the quality of presentations and discussions contributed to retreat's successful outcome.

The annual retreat offers an opportunity to review the progress achieved with its policies and programmes as well as discuss the activities for the next year, including its budget which is critical for the success of the Court. Staff at the retreat were drawn from all the departments of the Court.



Participants listening to a presentation

PICTURE FROM THE RETREAT



ECOWAS COURT PRESIDENT CALLS FOR STRENGTHENING OF AFRICAN HUMAN RIGHTS INSTITUTIONS FOR AN ENHANCED RESPECT FOR HUMAN RIGHTS

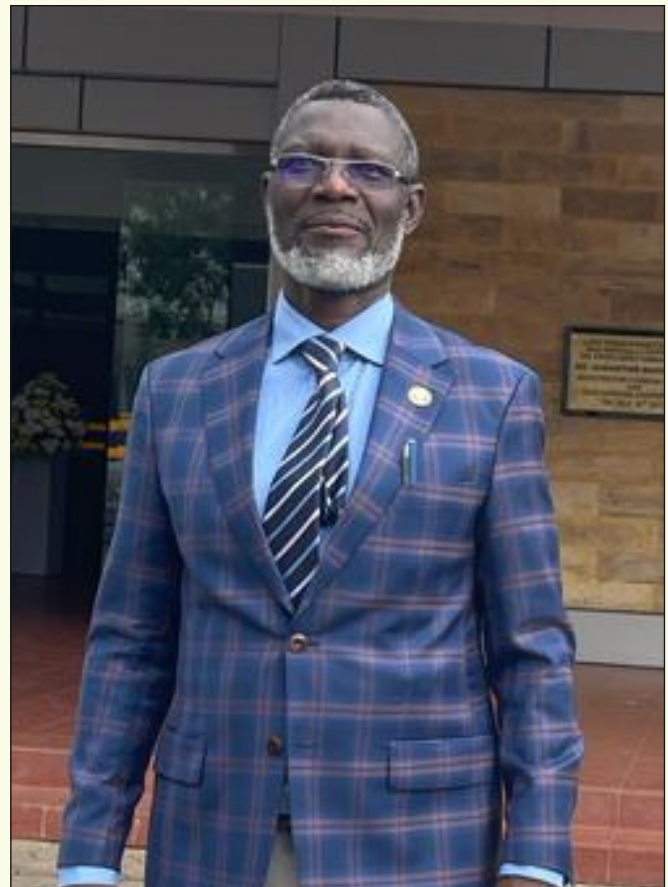
The President of the ECOWAS Court of Justice, Justice Edward Amoako Asante has urged participants at the 77th Ordinary Session of the African Commission on Human and People's Rights (ACHPR) in Arusha to contribute towards bolstering the independence and capacity of human rights organizations in the continent to enable them contribute more towards enhancing its human rights records.

In his address to the session, Justice Asante extolled the progress made with advancing human rights in Africa through various legislations at the continental level which have helped to strengthen jurisdictions and achieve milestones. He acknowledged the role of the African Charter as the cornerstone of the African Human Rights framework, noting that it has "contributed to the development of human rights in Africa by setting a regional standard for the protection of rights and freedoms."

He also noted the importance of similar instruments as underpinnings in the development of the human rights regime in the continent such as the Maputo Protocol (2003); the Kampala Convention (2009); and the African Charter on the Rights and Welfare of the Child (1990).

In the address, delivered on 21st October 2023, Justice Asante stressed the essential role of various regional and sub regional courts in safeguarding human rights, including the ECOWAS Court, which is vested with the powers, among others, to interpret, apply and enforce human rights in the 15 member Community of West Africa.

The President however expressed concern at the inconsistent adherence to the rulings of African human rights courts, noting that while African countries were quick to commit themselves to international instruments, these are not reflected in their enforcement of the decisions of their courts.



Justice Asante at the 77th Ordinary Session of the ACHPR

He added that such behaviour was not only inimical to the promotion of human rights on the continent but that non-compliance with the decision of their courts erodes public trust in the human rights bodies of Africa.

Justice Asante also said that democratic reversals in Africa manifested in the recent coups as well as economic mismanagement impede the progression of human rights initiatives. He therefore urged the authorities of Member States to champion good governance, enforce accountability, and bolster support for economic growth and poverty alleviation.

The 20-day session which commenced on 20th October 2023 is being held at the headquarters of the AHCPR in Arusha, United Republic of Tanzania.

ECOWAS COURT PRESIDENT COMMITS TO IMPLEMENTATION OF ROADMAP FOR ENHANCED PERFORMANCE OF THE REGIONAL COURT



Judges of the Court at the 2023 Judicial Retreat

Justice Edward Amoako Asante, President of the ECOWAS Court of Justice has pledged to implement the outcome of the three-day Judicial Retreat of the ECOWAS Court of Justice that ended on the 15th of November, 2023 in Nasarawa State, Nigeria.

The President made the assertion in his remarks during the closing ceremony of the Judicial Retreat that contrived a roadmap to reposition the Court for efficiency and effectiveness.

“This judicial retreat is remarkable, considering the immense contributions of judges and staff towards improving the judicial processes and procedures of the Court. Measures for the implementation of the outcomes will be put in place in line with the guidelines and timelines,” he said.

During the retreat, the Court decided that

departments should develop a rapid response mechanism for cases requiring expedited procedure and/or interim measures, including prioritised translation of the documents into the working languages (English, French and Portuguese) of the Court.

In addition, the Court is to set up training programmes for lawyers on the format for case filing, and practice and procedure before the Court. Participants also agreed to expeditious transmission of documents, and the development of a communication strategy for legal matters of the Court, among others.

Earlier, Hon Justice Gbéri-Bè Ouattara, Vice President of the Court, delivered a vote of thanks during which he highlighted the importance and impact of the retreat to an improved performance of the Court. He thanked the college of judges and staff for the convivial atmosphere that allowed for productive discussions and recommendations

for the overall repositioning of the Court for effectiveness.

Other honourable judges that attended the retreat include Justices Dupe Atoki, Sengu M. Koroma and Ricardo Cláudio Monteiro Gonçalves.

Also present were the chief registrar, directors, heads of units and divisions, legal officers and some key support staff of the Court.

The judicial retreat which held from November 12 - 15, 2023, on the theme Case Management before ECOWAS Court of Justice: Relationship between the Registry Department, the Chambers of the Honourable Judges and the Legal Research Departments, focused on four issues specific to the Court namely: (i) special forms of proceedings, judgments of the Court and its execution; (ii) service of legal documents on the parties and their dispatch to the honourable judges; (iii) the role of the Chief Registrar, Deputy

Registrar and other registrars in the case management process; and (iv) the role of the registry and legal research department in support of the judge rapporteur.

“This judicial retreat is remarkable, considering the immense contributions of judges and staff towards improving the judicial processes and procedures of the Court. Measures for the implementation of the outcomes will be put in place in line with the guidelines and timelines...”

The judicial retreat is an important annual activity of the Court that affords the judges and legal staff of the Court the opportunity to reflect, review and where necessary develop an implementable action plan for the enhancement of the operations of the Court.



Judges and Staff of the Court at the 2023 Judicial Retreat

ECOWAS COURT TO DEVELOP GUIDELINES FOR SCHEDULING OF CASES



Judges of the Court (seated front) and staff after the opening ceremony of the judges' retreat

The President of the ECOWAS Court, Justice Amoako Asante, has on Thursday, 16th of November 2023 affirmed that a three-day Judges Retreat organised by the Court is expected to provide guidelines that will help the Court in scheduling cases.

“The guidelines that will emerge from the discussions during this retreat are expected to help us with the scheduling of cases in relation to applications for expedited procedure, interim measures and default judgment,” the president said.

Delivering the opening remarks at the Retreat holding at Global Village Suites in Nigeria's Nasarawa State, Justice Asante said the event, organised under the theme Strengthening the ECOWAS Court of Justice “will focus on a myriad of issues deemed important to the effectiveness of the Court”.

According to the President, these issues include the modalities for the award of compensation and the need for uniformity and

unique practices before the Court and the need for convergence with the legal systems of the Member States.

In addition, he said the participants will reflect and deliberate on the guidelines for the scheduling of cases with special emphasis on the applications for expedited procedure, interim measures and default judgments.

The President called for uniformity in practice in the award of compensation noting that “the template will not only be consistent with the best international practice but also help to rest the unfounded notion of arbitrariness in the existing arrangement”.

He expressed the confidence that the outcome in the development of templates will contribute to furthering the case law of the Court and its leadership among the regional courts in Africa.

Justice Asante mentioned that the Court is taking steps to strengthen the Community

“...the template will not only be consistent with the best international practice but also help to rest the unfounded notion of arbitrariness in the existing arrangement.”

legal order and improve the enforcement of its decisions by engaging with the national courts of Member States for synergy towards the convergence of the legal system of the Community.

Participants at the three-day retreat will, among others, also reflect on the effect of applications for extension of time as well as on the consolidation of cases.

The retreat which the Court organises annually is designed to enable the Judges reflect and provide direction on contemporary issues important for the seamless functioning of the Court.

Other honourable judges that are attending the retreat include Justices Gbéri-bè Ouattara (Vice-President), Dupe Atoki, Sengu M. Koroma and Ricardo Cláudio Monteiro Gonçalves.

Also present are the Chief Registrar, directors, heads of divisions and units, legal officers and some key support staff of the Court.

RETREAT WENDS WITH RESOLUTIONS FOR REPOSITIONING THE COURT

Hon. Justice Edward Amoako Asante, President of the ECOWAS Court of Justice, has expressed his commitment to the implementation of the recommendations emanating from the Judges' Retreat which took place from 16 – 19 November, 2023 at Global Village Suites in Nasarawa, a federated state of Nigeria.

In his remarks delivered during the closing ceremony of the retreat, Justice Asante rated the retreat as highly successful and among the best retreats organized by the Court.

He stressed that the recommendations adopted will make it possible for the Court to adopt additional Practice Directions to guide parties and lawyers appearing before the Court and the Court's Registry on some matters on which the Rules of the Court are unclear.

The Judges Retreat under the theme “Strengthening the ECOWAS Court of Justice”, focused on various issues relating to the judicial practice of the Court.

The participants including the judges of the Court, as well as directors and legal officers, reviewed the Rules of Procedure of the Court on aspects which seemed ambiguous, and which posed problems of implementation.

Among the provisions examined were the Rules governing award of compensation, the processing of requests for extension of time, the management of requests for judgment by default and consolidation of cases.

Participants also discussed guidelines on the scheduling of cases, handling of preliminary objections and the currency in which compensation should be awarded.

The Vice-President of the Court, Hon Justice Gbéri-Bè Ouattara also delivered a vote of thanks during the closing ceremony. He expressed his gratitude to all participants for their zeal and commitment to the objectives of the retreat.

He commended them for their immense contribution and their diligence which resulted in relevant recommendations and resolutions.

ECOWAS COURT LAUNCHES WORKSHOP ON RISK MANAGEMENT



Group picture of judges and participants

The ECOWAS Court of Justice on Monday 27th November 2023 commenced a workshop aimed at reviewing its risk management strategies and developing a comprehensive risk register for 2024 under the theme "Risks Register Training and Preparation of the 2024 Risks Register."

The objective of the workshop is to equip Judges, Directors, Heads of Divisions/Units, and other relevant members with the requisite knowledge and skills to effectively implement robust risk management strategies.

In his opening remarks, President of the Court, Hon. Justice Edward Amoako Asante, emphasised the workshop's objective of developing and adopting Risk Register for the ECOWAS Court of Justice. He underscored the importance of empowering heads of division and unit with the necessary expertise to identify and address potential risks associated with their duties.

Justice Asante urged participants to actively

engage with the experts' guidance on the development and management of a risk register, recognizing its significance as an essential tool for proactive management.

Dr. Alfred Braimah, former Auditor General of the Institutions of the Community and Lead Consultant, reminded participants of the pervasiveness of risks, emphasising their inherent presence in everyday life.

Mr. Babatunde Oladipo, a consultant, highlighted the emergence of new risks, acknowledging that while participants may be familiar with some, they may be unprepared for new ones. He defined Enterprise Risk Management (ERM) as the art of proactively avoiding or mitigating risks before they materialise, enabling smarter decision-making.

Participants are expected to define risks from their respective departments and submit solutions to mitigate their consequences and optimise the objectives of the Court.

COURT COMMITS TO COOPERATION WITH SWEDISH BASED ORGANISATION



Judges of the Court with Mr Kimathi (middle)

The Vice President of the ECOWAS Court of Justice, Hon Justice Gbéri-Bè Ouattara has expressed the Court's commitment to continue cooperation with Raoul Wallenberg Institute, a Swedish human rights organisation which currently has a cooperative agreement with the Court.

The Vice President made that pledge on 6 December 2023 while receiving Mr Gilford Kimathi, Programme Officer of the Raoul Wallenberg Institute (RWI) who paid a working visit to the Seat of the Court in Abuja, Nigeria.

In his welcome remarks, Justice Ouattara expressed appreciation for the visit, recalling the good working relationship developed over the years as well the remarkable impact of the activities implemented under the Memorandum of Understanding between the two organisations.

The Vice President who represented the President of the Court, Justice Edward Amoako Asante, thanked the RWI for the mutually beneficial cooperation and reaffirmed the Court's commitment to the MoU.

On his part, Mr Kimathi commended the Court for the giant strides made to achieve the objectives of the MOU and expressed the Institute's willingness to support future programmes, and initiatives of the Court.

He said the visit was aimed at discussing and exchanging ideas on advancing the bilateral cooperation between the two organisations.

Both parties discussed areas of strategic future cooperation particularly as it relates to exchange programmes, capacity building, legal research resources,

Cont'd on page 20

AMERICAN LAW PROFESSOR VISITS ECOWAS COURT OF JUSTICE, SEEKS SUPPORT FOR ELECTION AS A JUDGE AT THE INTERNATIONAL COURT OF JUSTICE



Justice Ouattara (2nd right) with Mrs Cleveland, Mr. Niels Von Deuten (1st right) and Dr. Ouro-Sama

The ECOWAS Court of Justice on Wednesday, 19th July 2023, hosted Professor Sarah H. Cleveland, a candidate of the United States of America, who was at the Court to campaign for its support for her candidacy for the position of a judge at the International Court of Justice in the Hague.

She was received by the Vice President of the Court, Hon. Justice Gbéri-Bè Ouattara, who promised to convey her request to his peers who are on holidays because of the Court's vacation which started on 15th July 2023 and noted the antecedents of the candidate in human rights and Africa.

The Vice President also said that the Court is excited by the commitment of Professor Cleveland to promote collaboration between the ECOWAS Court and the ICC as this will help deepen human rights through the exercise of the mandates of the two courts.

The candidate had informed the Vice President of her nomination by the US government for the upcoming elections of judges to the International Court of Justice (ICJ) who will serve a nine year term beginning from February 2024.

Professor Cleveland, who is a Professor of international law at Columbia Law School, New York, told Justice

Cont'd on page 25

COURT DECLARES SECTIONS OF NIGERIAN PRESS COUNCIL ACT INCONSISTENT WITH HUMAN RIGHTS LAWS, ORDERS AMENDMENT



The ECOWAS Court of Justice on November 24, 2023 delivered its judgment in a case brought by two Nigerian journalists alleging the Nigerian Press Council Act of 1992 was discriminatory and violated their right to freedom of expression.

In the judgment delivered by Hon Justice Dupe Atoki, Judge Rapporteur, the Court declared that Sections 19 (1)(a), 27 and 37 of the Nigerian Press Council (NPC) Act failed to recognize public interest media including rights of online and citizen journalists thereby violating Article 9 (1) of the African Charter on Human and Peoples' Rights (ACHPR), and Article 8 (1) and 10 (2) of the Declaration of Principles on Freedom of Expression in Africa.

The Court therefore ordered the government of Nigeria to amend the contested Sections to align with international practices that promote free, pluralistic and professional journalism. It however dismissed other claims which were not substantiated.

The case with suit number ECW/CCJ/APP/31/21 was filed on 14 June 2021 by lawyers representing the Applicants – Mr Isaac Olamikan and Mrs Edoghogho Ugberease - online and citizen journalists who practise journalism for the promotion of freedom of expression, opinion, and access to information. In the application, they claimed that Sections 19(1)a, 27 and 37 of the Nigeria Press Council Act of 1992 requiring journalists to be at least 18 years and accredited by the NPC, 25 years to be an editor with working experience in reputable media organization or news agency and registered with the Nigeria Union of Journalists, discriminated against them.

The Applicants' lawyers led by Mr President Aigbokhan argued that these Sections failed to recognise public interest media such as the rights of online and citizen journalists and

were therefore discriminatory and violated their right to freedom of expression as guaranteed under Articles 2 and 9(1) of the ACHPR, Article 19 of the Universal Declaration on Human Rights (UDHR), Articles 2, 10 and 19 of the International Convention on Civil and Political Rights (ICCPR) and Article 8 (1) and 10 (2) of the Declaration of Principles on Freedom of Expression in Africa; and breached the State's obligation under the ECOWAS Treaty among other cited texts.

“For example, Section 37 of the Press Council Act, puts the minimum age to practice journalism as 18 years of age, while to be qualified as an editor, requires a minimum of 25 years of age. Sections 19(a) and 27 of the Act imposes educational qualifications and compulsory courses of attendance and training before a person can be recognized and allowed to practice as a journalist,” the judgment stated.

They also submitted that they were arrested separately at different locations while investigating and gathering information for their work, and that their arrest and detention were unlawful and violated their rights.

The Applicants asked the Court to order the Respondent to amend the contested Sections of the NPC Act to align with international practice and pay 1,000,000 (one million) USD as damages.

On their part, the Respondent's lawyers Mrs Maimuna Lami Shiru and Mrs B.J. Oladipo told the Court that 'journalism is a sensitive profession requiring mastery as well as regulation to prevent negative effect, adding that rights to information and freedom of expression are not absolute.'

The Respondent denied arresting and detaining the Applicants unlawfully, stating that the first Applicant were arrested because his

Cont'd on page 20

Cont'd from page 17 Court Commits to Cooperation with Swedish Based Organisation

judicial dialogues, academic networking and organisation of conferences.

Discussions were also held on possible review of the existing MOU with the Court, the future of the Institute's Regional Africa Programme and an intended 2024 conference scheduled to hold in Abuja, Nigeria next year.

Other participants in the meeting were Hon

Justices Dupe Atoki, Sengu M. Koroma and Ricardo Cláudio Monteiro Gonçalves. Also present were Dr. Yaouza Ouro-Sama, Chief Registrar of the Court, Dr Athanase Atannon, Deputy Chief Registrar, Dr Ousmane Diallo, Director, Research and Documentation, some Registrars of the Court, and key staff from the Protocol, Language Services, and Communication Divisions.

Cont'd from page 19 Court Declares Sections of Nigerian Press Council Act Inconsistent with Human Rights Laws, Orders Amendment

action had national security implications while the second Applicant operated illegally.

They added that, in the same way as other professional bodies, there were criteria for registration and membership as journalists, and urged the Court to dismiss the case describing it as frivolous, baseless and an abuse of court process.

In its analysis, the Court determined if the matter was within its mandate, if it was admissible and if the Sections of the NPC Act were discriminatory and violated the right to freedom of expression of the Applicants. Relying on its rules of procedure and jurisprudence, the Court held the matter was within its jurisdiction and the case was admissible.

On the alleged violation of Article 2 of ACHPR the Court noted that the Applicants did not substantiate on how they were treated differently in an identical or similar situation. Consequently, it held that their rights to freedom from discrimination under Article 2 of ACHPR has not been violated.

While on the alleged violation of Article 9 (freedom of expression), the Court noted that Section 19(1) and Section 27 of the Press Act imposing minimum educational requirement, age limit and registration, were restrictive and interfered with the right to freedom of expression, and therefore violated Article 9 (2). In reaching its decision, the Court also noted the impact of technology in the evolving media space with the advent of citizen

"Section 37 of the Press Council Act, puts the minimum age to practice journalism as 18 years of age, while to be qualified as an editor, requires a minimum of 25 years of age. Sections 19(a) and 27 of the Act imposes educational qualifications and compulsory courses of attendance and training before a person can be recognized and allowed to practice as a journalist..."

journalists, influencers and content creators who share news, commentary, and analysis on social issues. Though not qualified in traditional sense, they contributed to shaping public opinion.

It drew inspiration from young activists notably Malala Yousafzai and Greta Thunberg who in their teens integrated online media in their advocacy and have attained world recognition through a free and unrestricted opportunity to gather information and express opinion.

Regarding the Applicants' claim of unlawful arrest and detention, the Court noted that the Applicants did not prove their arrest was unlawful. Consequently, the Court dismissed their claims of unlawful arrest and request for compensation.

Both parties were ordered to bear their costs of litigation.

Also on the bench were Hon Justices Edward Amoako Asante (presiding) and Sengu M.

COURT ORDERS COMPENSATION FOR IVORIAN VICTIMS OF ENVIRONMENTAL DEGRADATION



The ECOWAS Court of justice on 30th of November, 2023, declared the State of Côte d'Ivoire liable for violation of rights of Adou Kouamé and nine other Ivorians, and ordered the Ivorian government to pay 50 million CFA Francs to each of them as compensation.

In its judgement delivered by Hon Justice Ricardo Cláudio Monteiro Gonçalves, Judge Rapporteur, the Court declared that the Respondent - State of Côte d'Ivoire violated the right to health.

Environment and health, right to private and family life, right to adequate standard of living and food, right to freedom of religion and right of minorities to have their own culture.

However, the Court dismissed the Applicants - Adou Kouame and Others' claim that their right to property was violated, for lack of sufficient evidence of ownership. The Court also declared the second, thirteenth and fourteenth Applicants in the suit as improper parties before the Court, stating that they did not present evidence showing their relationship with the parents they claimed to be representing respectively. The Applicants request for collective compensation was dismissed by the Court too.

In the case with suit number ECW/CCJ/APP/08/21, the Applicants - Adou Kouame, village head of Similimi and 14 other residents, claimed that the State of Côte d'Ivoire's failure to protect them from the negative effects of the mining activities in their community violated their right to healthy and sustainable environment, and health, right to religious and cultural freedom, right to private and family life, right to adequate standard of living and food, and right to property guaranteed under international laws cited in

the application.

The Applicants' lead counsels, Mr Rashidi Ibitowa, Ms Geneviève Aïssata Diallo and Mr Jonathan Kaufman argued that the Ivorian government did not "take measures to give effect to human rights protected by international law," adding that the mining operations have had adverse effects on plantations, forests, rivers and places of worship causing them health hazards from polluted water, polluted air, explosions, noise pollution and ground tremors. And that their ancestral places of worship were destroyed by the mining activities including altars for sacrifices and they are of the opinion their ancestors are angry with them because their prayers and invocations were no longer answered.

They also asked the Court to hold the State liable for failure to validate the impact assessment results of 2010 that would have resettled them, adding that the Ministry of Mining and Geology renewed the mining licence of the company in 2018 despite the fact that the environmental damage persisted, and the company had not fulfilled its obligations.

They demanded 12 billion CFA francs as compensation for the estimated 600 residents of Similimi, and another 3 billion CFA francs for the Applicants for the prejudice suffered, and an order for their resettlement, among other reliefs.

The Respondent - State of Côte d'Ivoire said that following the exploitation of the mines, and the residents' demand for compensation from the mining company as well as complaint of adverse effect on water and human health, the Minister of Environment engaged its agencies - Ivorian Anti-Pollution Centre (CIAPOL) and the National Environment Agency (ANDE) and that

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ECOWAS COURT ORDERS IMMEDIATE RELEASE OF 14 INMATES DETAINED SINCE 2018 BY THE TOGOLESE REPUBLIC

The ECOWAS Court, on 30 November 2023, ordered the Togolese Republic to release without delay M. Adam Latif and 13 other inmates who were arrested in December 2018 amid planned demonstrations and have been detained since then. The Applicants accused the Togolese Republic of violation of their fundamental rights.

In the judgment delivered by Justice Ricardo Cláudio Monteiro Gonçalves, judge rapporteur, the Court ordered the payment of 30 million francs CFA to each of the Applicants in compensation for the moral damage suffered due to the violation of their rights.

It held that the Respondent State violated the Applicants' human right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment as well as their right not to be arbitrarily detained.

However, the West African Court declared the Respondent not responsible for the infringement to the presumption of innocence, as the Applicants' allegations did not contain any argument consistent with the meaning of the right to the presumption of innocence.

In suit ECW/CCJ/APP/09/22, Adam Latif, along with 13 others, had lodged an application against the Togolese Republic, alleging violations of their rights to physical and mental integrity following their arrests by state security forces. They asserted infringements of their rights against torture, cruel, inhuman and degrading treatment, and their rights to the presumption of innocence.

The Applicants had alleged that their arrests occurred amid planned demonstrations in December 2018, spurred by the Togolese

authorities' failure to implement the Global Political Agreement (GPA) - a reformative accord among the ruling party, the opposition, and civil society - and the recommendations of the Truth, Justice and Reconciliation Commission (CVJR).

Despite the non-occurrence of the demonstrations, they were apprehended, charged, and subsequently inflicted with the alleged acts for confessions. They argued that these incidents, coupled with the extensive pre-trial detention, compromised their presumption of innocence and depicted the judicial system's utilization for political gains.

The Applicants informed the investigating judge of the alleged violations and stressed that an impartial investigation should have been conducted immediately, as per the United Nations Convention against Torture. However, he dismissed their reports and their request for provisional release were systematically rejected, even after interventions of the Court of Appeal.

They told the Court that they sought the intervention of the Minister of Justice and the Head of State to no avail, and that they were held in detention for political reasons.

The 14 detainees prayed the Court to order their immediate release and to mandate the Togolese Republic to

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ECOWAS Court Orders Immediate Release of 14 Inmates Detained since 2018 by the Togolese Republic

carry out effective investigations to enable them initiate prosecutions against the alleged perpetrators of the violations. They also asked for 250,000,000 FCFA each in compensation for the endured sufferings resulting from the alleged torture, arbitrary detention, and infringement of their rights to the presumption of innocence.

At its 25 September 2023 session, the Court had dismissed the Togolese Republic's defense submitted after a year in disregard of article 35 of the Rule of Procedure of the Court which requires that defenses must be lodged within one month after the service of the application.

In its analysis, on the alleged violation of the right to physical and mental integrity and the right not to be subjected to acts of torture or to cruel, inhuman and degrading treatment, the Court considered that the Respondent failed to

fulfill its obligations under Article 1 of the African Charter and Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to protect the Applicants against abuses resulting from the actions of its agents, since 'it has not demonstrated that it adopted adequate measures to guarantee an independent and effective investigation into the complaint filed by the Applicants.

Also, in the absence of any evidence presented by the Respondent to justify that the Applicants' arrests were in accordance with national or international law, the Court held that the Respondent violated the applicants' right not to be arbitrarily detained.

Were also in the three-member panel, Justices Edward Amoako Asante, Presiding and Gbéri-bè Ouattara, Member.

Cont'd from page 21

Court Orders Compensation for Ivorian Victims of Environmental Degradation

their reports led to the suspension of the activities of the mining company by an Order of 11 November 2015.

However, the company was allowed to resume activities in 2016 while implementing corrective measures, adding that periodic meetings between all parties continued until 2020 and that a general meeting was also held in 2021.

The Respondent asked the Court to declare the case inadmissible arguing that the matter was within the jurisdiction of national courts and that the claims of the Applicants were ill-founded and should be dismissed.

In the judgment, the Court which held that the matter was within its jurisdiction, also asked

the State of Côte d'Ivoire to ensure the residents of Similimi community located in Bondoukou district in Côte d'Ivoire were resettled in compliance with relevant laws, ensure a healthy environment is restored rapidly, end the ongoing environmental degradation, and hold the perpetrators responsible for the environmental degradation.

The State of Côte d'Ivoire was ordered to bear the cost of litigation, and submit to the Court within three months, measures taken to implement this judgment.

Also on the bench were Justices Edward Amoako Asante (presiding) and Dupe Atoki (Member).

ECOWAS COURT DIRECTS SENEGAL TO REVISE LAW COMPENSATING UNJUSTLY DETAINED INDIVIDUALS AFTER ACQUITTAL

The ECOWAS Court mandated, today 15th December 2023, the Republic of Senegal to reform Article 109 of its Organic Law governing the Commission for the Compensation of Persons Unreasonably Detained on Remand. The judgement orders Senegal to align a portion of the law with its international commitments, particularly that under the African Charter on Human and Peoples' Rights (ACHPR).

In Suit ECW/CCJ/APP/36/21, the Applicants had alleged the violation of their human rights, specifically violations of the right to fair trial, right to be tried within a reasonable time as well as for breaches of the principle of equality before the law.

In the judgment delivered by Justice Sengu Mohamed Koroma, Judge Rapporteur, the Court declared a violation of the right to fair trial and the right to be tried within a reasonable time under Article 7 (1) (d) of the ACHPR. It also declared a violation of the principle of equality of citizens before the law under Article 4 of the ACHPR.

Consequently, it awarded each Applicant, Mouhamed Rassoul Ndiaye and Alassane Lo, Fifty Million Francs (50,000,000 CFA) CFA as reparation for the violation of their right to fair trial, right to be tried within a reasonable time as well as for breaches of the principle of equality before the law.

However, it declared there was no violation of the presumption of innocence as guaranteed under Article 7 (1) (b) of the ACHPR.

In the initiating application, the Applicants asserted that they were arrested on December 12, 2023, facing criminal conspiracy and murder charges, and another unspecified

crime. Despite being acquitted by the First Criminal Chamber of the High Court of Dakar in judgment No. 77/2019 on July 16, 2019, they claimed to have been detained for eight years, leading to the collapse of their business and severe hardship for their families. They initiated proceedings with the Compensation Commission after their acquittal, seeking compensation in accordance with the Organic Law of the Supreme Court. Despite meeting eligibility criteria, their compensation application (decision N 02/CS/CI/2021) was denied, unlike others in similar situations. The Applicants alleged a violation of their fundamental rights guaranteed by the Senegal Constitution and relevant human rights conventions.

Senegal's defense challenged the notion that the detention length alone constituted a rights violation, emphasizing the case's complexity. It also denied any official role in media leaks about the investigation.

Addressing the extended pre-trial detention, the Court found that Senegal did not provide a satisfactory justification neither did it present a legal basis, thus infringing upon the fair trial rights guaranteed by Article 7 (1) (d) of the ACHPR. However, it rejected the Applicants' claim of a presumption of innocence violation, citing insufficient evidence that the leak stemmed from an official source, albeit the Respondent.

The Court did determine that Article 109 of the Organic Law violated the ACHPR's fair trial standards and equality under the law as outlined in Articles 7 (1) and Article 4, respectively. As such, it ordered the amendment of the law to meet Senegal's international obligations.

Claims regarding the right to compensation from the Compensation Commission of the Respondent were dismissed on grounds of jurisdictional competence. The Applicants had sought Five Hundred Million Francs CFA each for alleged rights violations.

Regarding reparation rights from the Compensation Commission, Senegal said

“...the Court found that Senegal did not provide a satisfactory justification neither did it present a legal basis, thus infringing upon the fair trial rights guaranteed by Article 7 (1) (d) of the ACHPR.”

there were two criteria: a long detention and an abnormal and particularly serious prejudice endured while in detention. The Respondent argued that they were not compensated because they did not give evidence on the prejudice suffered. It also added that the Compensation Commission did not require a reason to deny a compensation and therefore did not violate the Applicants' rights.

The Respondent State called for the dismissal of the Applicants' claims as unsubstantiated.

Other judges on the panel were Justices Dupe Atoki (Presiding) and Ricardo Cláudio Monteiro Gonçalves.

Cont'd from page 18

American Law Professor visits ECOWAS Court of Justice, Seeks Support for Election as a Judge at the International Court of Justice

Ouattara that one of the chapters of her courses in the university dealt with Community law and that the jurisprudence of the ECOWAS Court of Justice was particularly useful to her.

The candidate, who previously served as Vice-Chair of the United Nations Human Rights Committee, said that based on her appreciation of collaboration between courts, she organized the very first meeting between the Committee and the Inter-American Court of Human Rights and promised to organize more of such events when elected to the ICJ in order to continue the “conversation between courts”.

The Professor, who is from the US State of Alabama, explained that she had very good relations with the African continent as she was exposed to the realities of racism and campaigned against the injustices that stem from it. Moreover, she said that her graduation focused on independence and decolonization in Africa while her first job at law school was on research in Namibia and southern Africa on the transition from apartheid to constitutional

democracy.

She briefed the Vice President on steps being t

“...explained that she had very good relations with the African continent as she was exposed to the realities of racism and campaigned against the injustices that stem from it.

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ken as part of her campaign and promised to strengthen the relations of the ICJ with the African community courts in the event of an election.

She was accompanied to the Court by Mr. Niels Von Deuten, of the United States Department of State and David Frost, Deputy Political Counselor at the United States Embassy in Nigeria, while the Chief Registrar of the Court, Dr. Yaouza Ouro-Sama, was also

COURT AWARDS 30 MILLION CFA IN FAVOUR OF A TOGOLESE CITIZEN FOR VIOLATION OF HIS RIGHTS DURING A DEMONSTRATION IN 2020



The ECOWAS Court of Justice on Wednesday, 5th July 2023 awarded the sum of 30 million CFA as reparation to Mr. Agbogbo Kossi Edem, a Togolese for the violation of his human rights following beatings by security agents of the Republic of Togo while participating in a demonstration calling for the release of the results of the country's 2020 presidential election.

The Judge Rapporteur in the case, Justice Claudio Monteiro Gonçalves, who delivered the judgement said the award is for the violation of Mr Edem's Applicant's right not to be subjected to torture and other cruel, inhuman, or degrading treatment or punishment, pursuant to Articles 5 of the African Charter, 7 of the International Covenant on Civil and Political Rights (ICCPR) and 5 of the Universal Declaration of Human Rights (UDHR).

The Court also held that the detention of the Applicant by the Respondent was arbitrary and unlawful under Articles 6 of the African Charter, 9(1) and (2) of the ICCPR and 3 and 9 of the UDHR while his right to effective remedy were also violated as provided under Articles 7(1)(a) of the African Charter, 14(5) of the ICCPR and 8 of the UDHR. It therefore ordered the Republic of Togo to immediately undertake the investigation of the applicant's complaint over the incident in order to ascertain those responsible for the violations.

In documents filed before the Court, Mr Edem said he was beaten until he lost consciousness and was injured by the agents of the state while trying to help an elderly man trying to overcome the effect of the tear gas used to disperse the demonstrators.

He described the action of the agents as a

violation of his human rights, particularly the violation of his right to physical and moral integrity, as well as his right to the prohibition of torture and other forms of cruel, inhuman or degrading treatment, liberty, arbitrary arrest and effective remedy.

In the initiating application filed on 18th August 2022, the applicant that he participated in a demonstration on 22nd September 2020 organised by the Dynamic Monsignor KPODZRO (DMK), a group of political parties and civil society organizations, urging the country's Independent National Electoral Commission (CENI) to publish the results of each polling station used for the election. He said that no sooner had the demonstration started that the security forces arrived and fired tear gas canisters into the crowd resulting in a stampede during which some of the demonstrators were beaten up and that while trying to help an elderly man struggling to overcome the effect of the tear gas, he was beaten with truncheons by 'a horde' of law enforcement officers who confiscated his mobile phone and threatened him with death. The applicant said he managed to escape from the scene but was arrested around the street and subsequently beaten again during which he suffered injury and thereafter dumped in a van, handcuffed and later detained.

The Applicant, who was represented by his counsel, Raphaël N. KPANDE-ADZARE contended that the ill-treatment amounted to the violation of his right to physical and mental integrity as well as right not to be subjected to acts of torture, cruel, inhuman and degrading treatment. These, he said, violated his rights as provided for in the instruments human rights instruments, in particular articles: 5 of the African Charter on Human and Peoples' Rights of June 1981, 5 of the Universal Declaration of Human Rights of 10

December 1948; 7 and 10 of the International Covenant on Civil and Political Rights of December 16, 1966; 1, 2, 11, 12, 13 and 15 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10th December 1984.

The Applicant also accused the Respondent State of violating the Articles; 13, 16 and 21 of the Togolese Constitution of October 14, 1992; 198, 199, 200, 201, 202 and the country's penal code; right not to be arbitrarily arrested, a right provided for in articles: 6 of the African Charter on Human and Peoples' Rights, 3 and 9 of the Universal Declaration of Human Rights, 2 and 9 of the Covenant on Civil and Political Rights and 15 of the Togolese Constitution of October 14, 1992. Moreover, he said the actions violated right to an effective remedy enshrined in Articles: 7 of the African Charter on Human and Peoples' Rights, 8 and 10 of the Universal Declaration of Human Rights, 14-1 of the International Covenant on Human Rights civil and political and 19 of the Togolese Constitution of October 14, 1992. Among the reliefs sought was an order of the Court declaring that there has been a violation by the Republic of Togo of his right to physical and moral integrity, as well as his right to prohibition from torture and other forms of cruel, inhuman or degrading treatment, right to liberty, freedom from arbitrary arrest and right to effective remedy.

He also asked the Court to enjoin the Respondent to take all appropriate, urgent, and necessary measures to ensure that alleged perpetrators, their accomplices and sponsors, are prosecuted and punished in accordance with the laws in force.

Finally, he asked the Court to order the Togolese State to pay him the sum of five hundred million (500,000,000) CFA Francs for damages suffered as a result of the acts of torture and cruel, inhuman and degrading treatment; Two hundred and fifty million

(250,000,000) CFA Francs for damages suffered as a result of his illegal and arbitrary arrest; and One hundred and fifty million (150,000,000) CFA Francs for damages suffered as a result of the violation of his right to an effective remedy. But in its defence, filed on March 20, 2023, the Respondent State, represented by its counsel AQUEREBURU & PARTNERS denied the facts as presented by the Applicant and urged the Court to reject all the Applicant's pleas as unfounded and therefore to reject all his claims.

Also on the Court's three member panel for the suit were Justices Dupe Atoki presiding and SENGUM. Koroma.



To remain an independent, reliable, efficient and accessible legal and judicial institution of the Community, playing a strategic role in establishing and sustaining an enabling legal environment for the achievement of Community aims and objectives.

THE GAMBIA TO PAY 110,000 USD TO DAUGHTER OF DISAPPEARED CITIZEN

The ECOWAS Court of Justice has ordered the Republic of The Gambia to pay a total of 110,000 dollars to the daughter of a Gambian citizen and critique of former President Yahya Jammeh, who disappeared with another Gambian while on a visit to the Casamance region in neighbouring Senegal about ten years ago.

The Court said in its judgment delivered by Justice Sengu Mohamed Koroma on July 5, 2023 that 100,000 USD of the amount is for the violation of the fundamental rights of Ms. Nana-Jo N'dow while the remaining 10,000 USD is reimbursement for monies spent on forensic inquiry and identification of the late father's grave.

Justice Koroma said although the Gambian government discharged its obligation to provide remedy, it was not done within reasonable time in accordance with Article 7 (1) of the African Charter on Human and Peoples' Rights (ACHPR).

The Court also awarded cost in favour of the Applicant, Ms. N'dow.

In the initiating suit ECW/CCJ/APP/31/19 filed on July 1, 2019, the Applicant, Ms Nana-Jo N'dow alleged that The Gambian government breached its international obligation by violating the rights of her father particularly the right to life, right to effective remedy and right to be heard within reasonable time.

Her lawyers - Elise Le Gall, Deji Ajare and Oludayo Fagbemi told the Court that applicant's father, the late Saul Ndow with dual citizenship of The Gambia and Ghana, was a critic of the former president Yahya Jammeh who fled The Gambia and went into exile in Ghana following threats to his life.

They added that late Saul Ndow travelled to

Senegal to meet with Mr Mahawa Cham, a former Gambian Member of Parliament who was on exile in Senegal, and that both men travelled to Casamance, Senegal in late April 2013 and were never seen alive again.

They also told the Court that in December 2016, a journalist on exile in Ghana who investigated their disappearance published articles confirming that both missing men were abducted, and that a security guard contracted by late Saul Ndow wrote to the Senegalese authorities and the Ndow family about the abduction.

They also said that Ms Nana-Jo wrote to Amnesty International to assist in the search for her father and the working group on Enforced or Involuntary Disappearances of the Office of the High Commissioner for Human Rights informed her of its correspondence with both the Senegalese and Gambian governments seeking the investigation of the matter.

Furthermore, Mrs Ernestina Aboah-Ndow, spouse of the deceased and Nana-Jo's mother wrote to Gambia's Inspector General of Police requesting an investigation and the prosecution of the culprits after four years of no action.

They said that following the insistence of Sarjo Cham, brother of Mahawa Cham, two persons, Bubakarr Jarju and Suwandi Camara, were arrested on February 10, 2017 and charged on three counts that included the murder of Mahawa Cham and Saul Ndow.

But on May 26, 2017, Lamin Jarju of the Ministry of Justice wrote a legal advice to the Director of Public Prosecution in which he alleged that Ndow and Cham collaborated with Jarju and Camara to overthrow the Gambian government. He concluded that

there was insufficient evidence to charge Jarju and Camara and recommended instead that an investigation be carried out to determine their involvement in the abduction, their inclusion in the payroll of the Gambian Army and the role of the four junglers, an elite squad of the army, that reportedly whisked off both missing men.

However, the case against both suspects was dismissed for lack of sufficient evidence but Nana-Jo said the basis for the dismissal were inconsistent and incorrect and Sarjo Cham's statement was not considered in reaching that conclusion.

Consequently, the applicant said she lodged an appeal with the Ministries of Justice and Interior on the grounds of lack of proper investigation and in response, the Ministry of Justice asked the Ndow family to provide information or evidence to assist the investigation and the prosecution of the culprits.

She said that in response, the Ministry was advised to interrogate Pa Ousman Sanneh, a former member of the Junglar squad, who was then in detention and who was named in the newspaper report as responsible for the assassination of Ndow and Cham, charge him with murder, and arrest and prosecute Jarju and Camara for aiding and abetting both murders.

The applicant said that the Ministry of Justice had assured her that it will ensure "justice is done and seen to be done in all cases of abuse and crime under 22-year rule of former president Jammeh."

According to Nana-Jo, the ministry's response referred to the Truth Reconciliation and Reparations Commission (TRRC) set up by the government with the primary mandate of truth-seeking by establishing facts and identifying root causes of the violations which was not a judicial body to prosecute, or grant amnesty, reparation, etc . She added that

“
...applicant said that the Ministry of Justice had assured her that it will ensure “justice is done and seen to be done in all cases of abuse and crime under 22-year rule of former president Jammeh.”
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TRRC states that informants and witnesses shall not be subjected to civil or criminal proceedings for disclosing human rights violation and if remorseful may be granted amnesty.

The applicant added that she sent a letter on May 31, 2018 to the Ministry of Justice and Vice President of The Gambia regarding initiatives taken by The Gambian Center for Victims of Human Rights Violations in relation to the enforced disappearances and recommendations for next steps. She said that the letter led to the exhumation and identification of the mortal remains of four presumed victims – Solo Sandeng, Lamin Sanneh, Jaja Nyass and Njaga Jagne by Justice Rapid Response assisting the government after which a letter was sent to the widow of late Mr. Ndow, Mrs Ernestina Ndow assuring her that further exhumation will be carried out under the direction of TRRC which will have a full investigative unit.

However, she said that since July 2018, no investigation has been conducted or initiated though there has been confession by people suspected to be connected with the disappearance and alleged murder while the remains of the late Saul Ndow was later located. Despite that, the applicant said the Gambian government failed to act thereby contradicting the provisions of Article 7 of the African Charter on Human and Peoples' Rights and Article 8 of the Universal Declaration of Human Rights(UDHR) that guarantees right to effective remedy. She therefore urged the Court to hold the

government liable for violations of the right to life as guaranteed in Article 3 of UDHR and Article 4 of the African Charter, as well as the right to be tried within reasonable time in line with Article 7 of the ACHPR.

She also asked the Court to order the government to carry out a proper and timely investigation leading to the prosecution of those indicted and the reimbursement of the 10,000 USD she spent on forensic inquiry and identification of her father's grave and another 100,000 USD as compensation for the violations.

On their part, The Gambian government told the Court that the State had investigated, identified the culprit and issued a white paper which should form the basis for the prosecution of those responsible for the abduction and murder.

Mr Kimberg Tebene Tah, lawyer representing the State also acknowledged that victims were entitled to reparation and that funds have been allocated for them adding that it will amount to granting double reliefs or compensation should the Court award reparation to the applicant. The Respondent State asked for more time to allow the government implement the recommendations of the TRRC which he claimed was similar to the reliefs sought by Ms. Nana-Jo.

However, Nana-Jo's lawyers told the Court that the investigations carried out by the TRRC was not effective since it did not lead to the prosecution of anyone. Moreso, TRRC was not a court and could not handle a criminal case of this nature, adding that 10 years after, there has been no prosecution, nor compensation, while the government has not provided any evidence to demonstrate its readiness to pay reparation to the victims. They urged the Court to grant their reliefs.

In its analysis, the Court held it was competent to hear the matter, despite the claims of the Republic of The Gambia and that the matter

was admissible after noting that Ms Nana-Jo had established sufficient relationship as an indirect victim.

On the merit, the Court observed that the State violated the rights to life of Saul Ndow but that by setting up TRRC, the State performed its obligation to provide effective remedy.

While commending the State for the work done so far at TRRC, the Court noted that four years of not prosecuting nor awarding reparation while case was pending and ten years after the incident, could not be considered as working within reasonable time.

Consequently, it awarded 10,000 USD as monies recoverable and 100,000 USD as damages. It also ordered the Gambian government to ensure all its human rights obligations are fulfilled through the TRRC without delay, and to submit to the Court within six (6) months measures taken to implement this judgment.

Also on the panel were Justices Gbéri-Bè Ouattara and Ricardo Cláudio Monteiro Gonçalves.



To discharge and promote its judicial function of interpreting and applying Community texts as well as to ensure respect of human rights in an efficient, timely and cost effective manner with the support of a well-trained and motivated staff.

REPUBLIC OF NIGER ORDERED TO PAY 130,000,000 FCFA TO VICTIMS OF SERFDOM



The ECOWAS Court of Justice has ordered the Republic of Niger to pay the sum of 500,000 FCFA “in moral reparation” to each of the 260 of its citizens who were the victims of a local custom which breached the country's international obligations.

The Court held that by tolerating the Djerma customs, under which the Applicants were required to pay homage with their farm products to the owners of the land to whom they were previously enslaved, the government was in breach of its obligations under Articles 3 and 5 of the African Charter of People and Human's Rights(ACPHR).

Delivering judgment no . ECW/CCJ/JUD/30/23, Justice Sengu Mohamed Koroma, who read the judgment of the Court, held the Republic of Niger in violation of its obligation to ensure non-discrimination among its citizens as provided in Article 3 of the ACPHPR after its national courts endorsed the application of local customs synonymous with discrimination.

Moreover, the Court said that fundamental rights like the right to life, protection from slavery and torture and liberty were consequences of the application of the Articles cited above and that having breached them, the country was in breach of the right to development of the applicants, who are residents of Danki villagers.

In suit ECW/CCJ/APP/21/19, Mr Hassane Abdou Nouhou, acting on behalf of the 260 families living in Danki village sued the country for the inaction of its officials in perpetuating these ancient customs.

Mr Nouhou said that the grandfather of the applicants was captured and enslaved by the landowners, the Kourmo family and that

following the abolition of slavery in 1899 by the French, his grandfather created the Danki village and has since then being paying tribute in form of bundles of millet annually to the Kourmo's as a gesture of gratitude for allowing them to settle in the land.

However, the Applicants said they were not allowed to own the land, which only belonged to the masters with the right of ownership transmitted by way of succession based on local custom which they found discriminatory and inconsistent with the country's international obligations after it had signed and ratified international instruments against discrimination and rights to development.

Furthermore, the Applicants contended that the Republic of Niger was in violation of its obligation under Articles 4 of the Universal Declaration of Human Rights, 8 and 4(2) of the International Covenant on Civil and Political Rights which prohibit slavery and serfdom without derogation.

Moreover, the applicants alleged that in 2007 , when the settlers of Danki stopped the tributes, following the designation of the area as an administrative entity, the Kourmo family sued them before various national courts and was able to secure favourable judgments based on the provisions of customary law.

In conclusion, Mr Nouhou said that by relying on customary law on land, there was no possibility of the Danki settlers getting a fair trial from the judiciary.

In its response, the Republic of Niger argued that by paying the tribute, the Danski villagers had acknowledged the ownership of the land by the Kourmo family and that while slavery had been abolished, the payment by the villagers' ancestors should not be construed

Cont'd on page 36

COURT AWARDS \$20,000.00 AGAINST THE GOVERNMENT OF SIERRA FOR INTERFERING WITH THE PROPERTY RIGHTS OF A LOCAL COMPANY

The ECOWAS Court, on Monday 10 July 2023 ordered the Republic of Sierra Leone to pay US\$20,000.00 (Twenty thousand US Dollars) to a local company, UNISEL limited, for interfering with its property rights.

This followed the refusal or failure of the agents of the government to allow the company enjoy the rights to a property it legitimately acquired from the government in 2013.

Delivering judgment on Monday, 10th July 2023 in the suit, Justice Dupe Atoki, who read the decision of the Court, said the action of the government amounted to the violation of the Company's right to the 4.99 Acres of private property belonging to the company.

In particular, she declared that the right to property of the Applicant, in regard to the land situated off Wilberforce Loop, Wilberforce, Freetown, Sierra Leone and delineated on Survey Plans dated the 4th October, 2013, was violated by the Respondent.

Consequently, the judge held that the Respondent is not entitled to enter, use or sell the land and therefore ordered the Respondent State to ensure that its Ministry of Lands, Housing and Country Planning, including the Director of Survey Plans, expeditiously processe, approves and signs the private Licensed Surveyor Plans of the Applicant on the property that is the subject of the suit.

The Court also ordered the State to ensure that there are no delays in future processing, approvals and signature for sub division Survey Plans relating to the Applicant's land which is the subject matter of the suit.

In the initiating application No: ECW/CCJ/APP/30/22 filed before the Court, the Applicant averred that the Respondent sold to them a parcel of land with buildings situated and lying Off Wilberforce Loop, Wilberforce Freetown in the Western Area of the Republic of Sierra Leone and delineated on Survey Plans dated 4 October 2013 plot No.1 measuring 4.6967 acres in area.

The Applicant told the Court that the property consist of land and buildings for which they paid the sum of Le.219, 500,000.00 (Two Hundred & Nineteen Million, Five Hundred Thousand Leones) for the plots of land and another \$250,000.00 (Two Hundred and fifty Thousand United States Dollars) for the buildings. Based on these payments, the applicant said a Deed of Conveyance dated 27 November 2013 was executed.

"...the judge held that the Respondent is not entitled to enter, use or sell the land and therefore ordered the Respondent State to ensure that its Ministry of Lands, Housing and Country Planning, including the Director of Survey Plans, expeditiously processe, approves and signs the private Licensed Surveyor Plans of the Applicant on the property that is the subject of the suit."

The applicant said that on 4th January 2022, it discovered a shortfall in the number of plots originally allocated to them and therefore resubmitted a new survey to the Director of Surveys and Lands to countersign in accordance with Section 15 of the Survey Act Cap 128 of the laws of Sierra Leone, 1960. However, despite

Cont'd on page 33

Cont'd from page 32

Court Awards \$20,000.00 Against the Government of Sierra for Interfering with the Property Rights of a Local Company

several written reminders, the applicant said that the Director refused to sign the new survey and counter sign a survey for a portion of the plot bought by one Mr. Rabih Skeiky from the company.

The Applicant further averred that to their amazement and during the pendency of this suit, the Respondent entered the said landed property and installed several beacons informing the security personnel on site that the property belongs to the Respondent.

Consequently, the Applicant claimed that the conduct of the Respondent has prevented them from disposing off the property.

Invoking Article 14 of the African Charter on Human and Peoples' Rights and Article 17 of the Universal Declaration of Human Rights, the Applicant accused the Respondent of persistently interfering with the exercise of its property rights over the property which amounts to the control of its property and abuse of their fundamental human right.

Moreover, the applicant said that the action of the Respondent in refusing to countersign the survey plan is contrary to section 15 of the survey act of Sierra Leone Law.

The Respondent did not file any defence in the instant matter and in response to the Applicant's processes despite being served.

Among the reliefs sought, is an order of the Court to adjudge and declare that the Respondent is sustainably violating their right to property contrary to Article 14 of the African Charter on Human and Peoples' rights and Article 17 of the United Nations Universal Declaration of Human Rights (UDHR).

It also asked the Court to adjudge and declare that the Respondent's persistent failure to approve and countersign Sub-division Licensed Survey Plans submitted to the

Respondent's Ministry of Lands, Housing and Country Planning for signature to enable the Applicant to sell to potential buyers deprived the Applicant of its right to earn income for further investment which is incompatible with its right to own private property and a gross violation of the Applicant's rights as guaranteed by Section 15(a) of the Constitution of Sierra Leone 1991 Act No. 6 of

"...is an order of the Court to adjudge and declare that the Respondent is sustainably violating their right to property contrary to Article 14 of the African Charter on Human and Peoples' rights and Article 17 of the United Nations Universal Declaration of Human Rights (UDHR)."

1991.

The applicant urged the Court to order the Respondent to pay it the sum of US\$1,615,000.00 (One Million, Six Hundred & Fifteen Thousand United States Dollars) being the market price for 1.7169 acres representing 19 Town lots being the difference of the land actually sold by the Respondent to the Applicant but never existed on the ground after the re-surveying.

It also asked the Court for an order compelling the Respondent to pay damages in the sum of US\$1,785,000.00 (One Million, Seven Hundred and Eighty-Five Thousand United States Dollars) in compensation for the loss of income, investment opportunity and expansion due to deprivation and unlawful interference in the sale of 21 town lots. Moreover, it urged the Court to direct the State of Sierra Leone to pay interest on the total sum of US\$3,400,000.00 (Three Million, Four Hundred Thousand US Dollars) computed at the prevailing Bank rate at the time of the Order until payment is completed.

Also on the Court's three-member panel for the suit were Justices Sengu M. Koroma and

FORMER VICE PRESIDENT OF LIBERIA IN COURT OVER OWED PENSION, BENEFITS



The ECOWAS Court has fixed December 12, 2023 for presentation of the terms of settlement for consent judgment of the Court in a case concerning unpaid pension and retirement benefits of His Excellency, John D. Gray, former Vice President of Liberia, since October 2003.

Justice Gberi-be Ouattara, presiding judge, adjourned the case for two months to allow more time for the process of amicable settlement, after hearing the progress report from both parties during the court sitting held on September 28, 2023.

At the hearing, Mr Lafayette Gould Sr representing the state of Liberia informed the Court that the request for an extension of time was to enable the government fulfil its part in the process of settlement, delayed by the country's preparation for election.

However, Mr Femi Adedeji who represented the former Vice President told the Court that prior to the court sitting, they did not receive update on developments made on the part of the government towards the amicable settlement.

Thereafter, Mr Gould was mandated to periodically inform H.E. John Gray's lawyers on developments towards fulfilling their part in the terms of settlement.

In the initiating application with suit number ECW/CCJ/APP/61/21 filed on October 15, 2021, the Vice President who served under President Moses Z. Blah from August 11, 2003 to October 14, 2003, claimed the Liberian government violated his rights, specifically his property rights to pension and retirement benefits and other associated rights.

His lawyer, Mr Adedeji told the Court that the Republic of Liberia violated his rights to freedom from discrimination, equal protection of the law, rights to human dignity, fair hearing and right to property as

guaranteed by Articles 2, 3, 4, 7 and 14 of the African Charter on Human and Peoples' Rights (ACHPR) as well as Liberia's 2003 Act (to amend an Act) providing for retirement pension of the President and Vice President.

He said that the non-compliance of the State was a continuous violation of the State's domestic law specifically Sections 1 and 2 of the Act of the National Legislature of November 26, 2003.

It states in part that "A former Vice President who has been honourably retired to private life and who is not in any way employed by the Government shall receive from the Government a pension equal to fifty percent (50%) of the salary of the incumbent Vice President. In addition, the former Vice President shall be entitled to a personal staff and facilities for the remainder of his/her life. The allowance allowed for this purpose shall not be less than fifteen thousand (\$15,000) United States Dollars per annum."

Mr Adedeji also said the government's action has subjected H.E. John Gray to degrading and humiliating human conditions considering that other former Vice Presidents were receiving their benefits.

He urged the Court to declare the State liable for the violation of the former Vice President's rights as guaranteed under the ACHPR, the Liberia Constitution of 1986, the International Covenant on Civil and Political Rights (ICCPR) and other relevant legal texts.

He asked for a Court order compelling the State of Liberia to pay H.E. Gray's retirement benefits from October 14, 2023, his pension benefits for life, and USD 5,000,000 (Five Million Dollars) as general damages for the violations.

Also on the panel were Justices Sengu M. Koroma, and Ricardo Cláudio Monteiro Gonçalves.

COURT HOLDS INDUCTION WORKSHOP FOR NEW STAFF



New staff from Language and IT divisions

The orientation program aimed at familiarising newly recruited staff members with the functioning of the various departments of the Court ended on Wednesday, October 11, 2023, in Nasarawa, a state of the Federal Republic of Nigeria.

A total of eight (8) presenters from the Registry, Research and Documentation, Administration and Finance departments, as well as the Court's Communication and Information division and a facilitator from the ECOWAS Commission briefed the participants on the role and activities of their respective services.

The beneficiaries of this training, ten in number (10), actively participated in the various sessions and expressed their satisfaction with the different modules, emphasising the fact that not only was the training informative but above all it will enable them to carry out their duties efficiently.

In his closing speech, the Vice-President of the Court, Honorable Justice Gbéri-Bè Ouattara, moderator during the three days of training, congratulated the participants who demonstrated seriousness and professionalism during the programme. He also

Cont'd on page 36

Cont'd from page 31

Republic of Niger Ordered to pay 130,000,000 FCFA to victims of Serfdom

as a gift to a master but payment of rent.

The Respondent State noted that in accordance with article 14 of the country's 25 November 2010 Constitution, slavery was banned and sanctions spelt out but that customary law was not discriminatory as the applicant could acquire a land at will.

On the violation of the right to development, the Republic of Niger said that the National Agency for the Fight against Human Trafficking (ANLTP) was created specifically

to address such claims and that neither the Applicant nor their representatives have ever filed a complaint with the agency.

On the violation of the applicant's right to fair hearing, the Respondent State noted that the procedure in its courts allowed for fair hearing and consequently asked the Court to dismiss the suit as it has not violated any of the rights cited by the applicants.

Also on the panel are Justices Gbéri-Bè Ouattara (presiding) and Ricardo Cláudio Monteiro Gonçalves.

Cont'd from page 35

The Training Workshop on the induction of new staff members ends

urged the participants to be conscious of the importance of their mission in the activities of the Court and particularly in the handling of procedures.

Justice Gbéri-Bè Ouattara declared that he had no reason to doubt that the new recruits will make qualitative contribution to the Court given their performance during the recruitment interviews.

The Vice President maintained that through their work, interpreters and translators direct the thinking and work of judges to the point of influencing the trial and subsequent decision. He therefore called on translators to be faithful in translations in order to guarantee the good quality of their work.

He recognized the difficulties faced by translators and interpreters and promised that the management of the Court will make it easy for them to carry out their mission.

Finally, he called on the participants to demonstrate humility, noting that it is only in this state of mind that "we learn, share and accept criticism if we want to improve our performances". Citing a wise man from his country, the former President of Côte d'Ivoire, late Félix Houphouët Boigny, Justice Gbéri-Bè Ouattara concluded that "humility has never been incompatible with dignity, one grows while remaining humble and tolerant."



- Independence
- Impartiality
- Integrity
- Accessibility

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