



ECOCOURT

BULLETIN

A PUBLICATION OF THE ECOWAS COURT OF JUSTICE

Vol. 1 No. 3

JAN. – JUN. 2022

COURT TAKES OVER NEW BUILDING FROM NIGERIAN GOVERNMENT



The new building provided by the government of the Federal Republic of Nigeria to the Court was officially handed over by officials of Nigeria's Federal Capital Territory Administration (FCTA) to a five man delegation of the Court led by its Chief Accountant, Mr. Friday Nzonzo.

This followed a 14th December 2021 communication from the Court requesting the formal handover of the building located on Plot 1164 Joseph Gomwalk Street located in the Gudu District of Abuja, Nigeria's capital city by the FCTA.

The key to the building was handed over to Mr. Nzonzo by the Director of Facilities Maintenance and Management of the FCTA, Engineer Omoniyi M. Olaloye, after the completion and signature of the relevant documentation by the head of the

delegation. The latter represented the Director of Administration and Finance of the Court at the ceremony.

Engineer Olaloye said the handover is in fulfilment of Nigeria's obligation under the headquarter agreement with the Court and the pledge made to a delegation of the Court by the Minister of the FCT Hon. Mohammed Musa Bello.

In his response, Mr. Nzonzo commended the government for the gesture which will provide the Court with a more befitting office accommodation and enhance the productivity of the institution.

The delegation of the Court used the opportunity to undertake an inspection of the building during the brief ceremony which had the representative of the Landlord of the building in attendance

NIGERIA'S KWARA STATE BUILDING THE SUPPORT INFRASTRUCTURE FOR ECOWAS INTEGATION – GOVERNOR



The Deputy Governor, the Judges of the Court with the state Chief Judge and the representative of Emir of Ilorin after the opening ceremony

Nigeria's Kwara State, which shares a border with neighboring the Republic of Benin, said it is building necessary infrastructure to support and strengthen regional ties in the spirit of ECOWAS integration objectives, particularly the concept of a common market of the region, the State Governor His Excellency Abdulrahman AbdulRazaq said on Tuesday, 22nd February 2022.

"An example is the international market we are building in Gbugbu which will attract people from across Nigeria and the West African sub region," the Governor said in a message at the opening ceremony of a weeklong sensitization campaign of the ECOWAS Court of Justice in Ilorin, the state capital.

In the message which was read by the Deputy Governor, His Excellency Kayode Alabi, the Governor said that with an area of over 5 million square kilometres and an estimated population of 418 million, it was imperative that the Court continues to play a significant role in cementing the legal regime for the development of the ECOWAS region through its adjudicatory mandate in the settlement of disputes.

"This is particularly important as the concept of one

market and free trade continues to gain currency across not only the sub region but the African continent making it necessary to involve the justice system in this sociopolitical evolution," the Governor said.

He praised the Court for the initiative of organizing the campaign to enhance public awareness of its activities as "this will impact positively on promoting the rule of law in the West African sub region, whose entrenchment is indispensable in the quest to deepen the political and economic ties of the 15 Member States of the Community."

He welcomed the delegation and pledged the support of the government for the campaign while urging the members of the delegation to avail themselves of the opportunity of their visit to savour the serene and peaceful environment of the State.

In his opening address, the President of the Court, Honorable Justice Edward Amoako Asante explained the programme as an annual activity of the Court in Member States designed to deepen the knowledge of citizens about the Court and how to access it.

"The essence of the sensitisation programme is to create awareness about the Court, its mandate,



Justice Ouattara presenting a gift to the Deputy Governor

jurisdiction, jurisprudence and practice and procedure among ECOWAS Community citizens in the 15 Member States,” the President said in the address which was delivered by Justice Dupe Atoki.

He noted that the campaign is designed to address the observed general lack of awareness about the Court, its mandate and jurisdiction by the general public across the sub region which has become imperative in to ensure Community citizens are fully sensitised about their Court in order to deepen their knowledge about the institution, especially in the aftermath of the adoption of the ECOWAS Vision 2020 towards a citizen driven Community.

In this regard, he explained that the programme has been designed in such a way that the presentations for each segment respond to their peculiar needs such as the judicial forum for judges which will mainly dwell on the relationship with national courts while the women’s forum will enable the Court highlight the “monumental work” being done in the protection of women’s rights and a Lawyer’s forum.

Earlier, the State Attorney General and Commissioner for Justice, Barrister Salman Jawondo, spoke of the benefits of the campaign for legal practitioners and citizens of the State, especially in the wake of the adoption of the 2005 Protocol on the Court which grants individuals,

access to the Court for matters relating to human rights violations in the Member States.

There were also goodwill messages from the Speaker of the State Assembly, Rt Honorable Salihu Yakubu-Danladi, who was represented by his Deputy, Rt. Honorable Raphael Adetiba and the Chairman of the Ilorin chapter of the Nigeria Bar Association, Barrister Ganiyu Bello. The Chairman used the opportunity to assure the Court of the full participation of legal practitioners of the State in the Lawyer’s forum of the campaign scheduled for Thursday, 24th February 2022.

The opening ceremony was followed by an open forum during which the Chief Registrar of the Court, Mr Tony Anene-Maidoh presented an overview of the Court while a staff of the Research and Documentation Department, Mr. Istifanus John made a presentation on the human rights mandate and enforcement of the decisions of the Court.

The judicial forum for Judges of was held on Wednesday, 23rd February 2022, followed by the Women’s forum. The campaign ended on Friday, 25th February 2022 with a press conference.

The delegation of the Court was led by the Vice President, Justice Gberi-bè Ouattara and included Justices Dupe Atoki, Keikura Bangura, Januária Tavares Silva Moreira Costa and staff.

PICTURES FROM THE OPENING CEREMONY



MORE PICTURES FROM THE OPENING CEREMONY



COURT PRESIDENT ADVOCATES HARMONISATION OF JUDICIAL SYSTEMS OF ECOWAS MEMBER STATES



Hon. Justice Atoki delivering the President's speech

The President of the ECOWAS Court of Justice, Honorable Justice Edward Amoako Asante has advocated for the harmonization of the judicial systems of Member States through the alignment of the legal texts of the Community with those of the States in order to attain a Community legal regime that supports the region's integration objectives.

In a presentation on Wednesday, 23rd February 2022 at a judicial forum for judges, magistrates and officials of the Kwara state judiciary as part of the Court's weeklong sensitization campaign in Ilorin, the state capital, the President characterized the relationship between the ECOWAS and national courts as a crucial element in the integration process of ECOWAS.

"It is therefore of utmost importance that Member States of ECOWAS domesticate the ECOWAS Revised Treaty and the Protocols and Supplementary Acts of the Community. It is also imperative to deepen the relationship between the judges of the ECOWAS Court of Justice and the national courts of ECOWAS Member States," the President said in the presentation which was delivered by a judge of the Court, Justice Dupe Atoki.

Honorable Justice Asante reiterated the international character of the ECOWAS Court and its long held position that it is neither in competition

with national courts nor an appellate court over their decisions but that both play complementary roles in the dispensation of justice and the integration of the region.

"In a long chain of decisions, the ECOWAS Court of Justice has consistently held that it is not an appellate Court over national Courts of Member States as the Court has maintained that it has no jurisdiction to make any declaration on the Judgments of national courts, except where the national Courts or parties refer to issues of interpretation of Community texts," he added.

In this regard, he said that the ECOWAS Court has declared that the relationship existing between the Court and national courts of Member States is not of a vertical nature but demands an integrated Community legal order and that the national courts have the obligation to implement the decisions of the Court. He added that the obligation did not imply hierarchy as the regional Court was not an appellate Court or a Court of cassation over the national courts but had been fostering judicial comity with the national courts of Member States.

The President identified the possible areas of conflict between the regional and national courts arising mainly from mutual suspicion and the different legal systems in the Community to include their co-location within the same geographical space; their concurrent human rights jurisdiction; the lack of requirement for the exhaustion of local



The Deputy Governor with the Judges and other VIP's at the opening

remedies, the failure by Member States to domesticate the Revised Treaty of 1993 and the Protocol on the Court in accordance with their treaty obligations.

Also included are the failure by Member States to comply with or enforce the judgments of the Court; the gaps in the ECOWAS legal texts and the municipal laws of Member States leading to the inability to clearly define the relationship between both courts.

The presentation also dwelt on the evolution of the Court and its transition from an inter-state court with Treaty supervision and oversight functions at its inception to a court with four mandates including human rights which has become its preeminent mandate.

Earlier, the Chief Judge of the State, Justice S.D. Kawu praised the 'thoughtfulness' of the regional court in organizing the campaign which did not only create greater awareness of the Court among the citizens but opened the door for more legal practitioners from the state to "ply their trade before the court" and widen their scope of the practice of the law.

He reminded those with judicial powers of the "enormous and far reaching powers they exercise over our fellow men and women," which requires that they "exhibit good character, reputation, diligence, hard work, honesty, integrity, sound knowledge of the law and consistent adherence to professional ethics."

Citing a former Chief Justice of Nigeria, His Lordship Honorable M.L. Uwais at an induction course in 1991, the Chief Judge said the "image of the judiciary is determined by what we all as judicial officers do in the performance of our duties and as individuals in the dispensation of justice (as) the ordinary citizens builds up his image of the judiciary by what we all do or are going to do in our different Courts."

"We must never in the discharge of our duties entertain for a moment, the fear of any individual or institution or be swayed by the sentiments of tribe, religion or family relationship", the Chief Judge said, urging them not be cowed into indulging in any unethical conduct due to any threat or intimidation.

He added: "we must at all times in the course of discharging our duties, fear only God, our creator, who is the judge of all judges, the possessor of power over all beings and to whom we shall ultimately give account of our stewardship and sojourn here on earth, on the day of judgment."

The campaign, which was declared opened the previous day by the State Governor has dedicated forums for the judiciary, women, lawyers and students, each of which is tailored to meet the needs of each group.

The delegation of the Court to the campaign was led by the Vice President, Justice Gberi-bè Ouattara and included Justices Dupe Atoki, Keikura Bangura and Januária Tavares Silva Moreira Costa as well as staff of the Court.

COURT CONCLUDES WEEKLONG SENSITIZATION CAMPAIGN IN NIGERIA'S KWARA STATE WITH A PRESS CONFERENCE



Members of the Press listening attentively at the conference

The ECOWAS Court of Justice held a press conference on February 25, 2022 to conclude its weeklong sensitization campaign in Nigeria's Kwara State during which a judge of the Court, Justice Dupe Atoki enumerated the activities undertaken during the campaign.

She told the media that the sensitization was held to create awareness on its existence and its activities. She added that targeted forums, which addressed the specific needs of the various stakeholders, were held for Judges, women, law students and lecturers as well as lawyers.

The mission commenced with courtesy visits on the Kwara State Chief Judge, Justice Suleiman Durosinlorun Kawu, the Attorney General and Commissioner for Justice, Barrister Salman Jawondo, a member of the country's inner bar and the Chairman of the Ilorin chapter of the Nigeria Bar Association (NBA), Barrister Ganiyu Bello.

The delegation also visited the Emir of Ilorin, His Royal Highness, Ibrahim Zulu Gambari, a former judge and the 11th traditional ruler of Ilorin who used the opportunity of the visit to propose the expansion of the Court's mandate to enable it hear

criminal matters arising from human rights violations.

The State Governor, His Excellency, AbdulRahman AbdulRazaq, declared the campaign open on February 22, 2022.

The Governor, who was represented by the Deputy Governor, His Excellency Kayode Alabi commended the initiative of the Court to increase its visibility within the sub region as this will impact immensely in promoting the rule of law essential to achieving "regional political and economic ties of the 15 Member States of ECOWAS".

He added that Kwara State has commenced infrastructural development along its boundary area with neighbouring ECOWAS member state – Republic of Benin, "to support trade and strengthen regional ties" as the one market and free trade initiatives continue to gain grounds in the subregion and across the African continent.

The opening ceremony was followed by an open forum during which the Chief Registrar presented a paper that provided an overview of the Court and its Jurisdiction while a staff of the research unit spoke on the Human Rights Mandate of the Court, and

Enforcement of Judgments of the Court.

On February 23, 2022, the Court held a judicial forum for judges, magistrates and judicial officers of Kwara State with the main focus on discussing the relationship between the ECOWAS Court and national courts.

In a presentation, the President of the Court, Justice Edward Amoako Asante, said that being an international court, the ECOWAS Court applies only international laws to which Member States are parties even in matters of human rights violations, a concurrent jurisdiction it shares with national courts. He said the ECOWAS Court only entertains matters of human rights violations brought against an ECOWAS Member State.

In the presentation, which was delivered by Justice Atoki, the President said the ECOWAS Court lacked the powers to make declarations on judgments of national courts except for referrals from the national courts of Member States on the interpretation of ECOWAS Community texts.

He added that the Court fostered close relationships and collaborated with national courts to ensure the realization of an integrated community legal order for the achievement of the economic integration of the region.

The session was followed by a separate forum for women which was attended by members of the International Federation of Women Lawyers (FIDA), National Council of Women's Societies (NCWS) and other civil society organization during which matters of human rights violations concerning women and children were highlighted and discussed with references to decided cases of the Court on women rights violations.

One of the classic cases cited was the Court's judgment ECW/CCJ/JUD/06/08 concerning a Nigerien, Hadijatou Mani Koraou who was sold off as a slave girl and refused freedom after many years of slavery. Delivering its decision in the case, the Court held the government of Niger liable for breach of its obligation to uphold international treaties and conventions signed by it, which



The Emir of Ilorin (Centre), HRH Ibrahim Sulu-Gambari with the Judges in his palace

guaranteed freedom from slavery and discrimination against women among others. The Court ordered that she be released and awarded costs in her favour.

There was also a forum for lawyers on February 24, 2022 where presentations were made by staff of the Court on Mandate and Jurisdiction of the Court, Practice and Procedure of the Court, and How to file Cases before the Court.

Law students from the State owned and private universities - Kwara State and Al-Hikmah - also participated in a forum for law students which was attended by law professors and lecturers. The forum enabled them to gain insights on the Court including its collaboration with national courts to promote rule of law within its geographical space.

The campaign ended with the press conference. During the question and answer session of the press conference, the Chief Registrar of the Court, Mr. Tony Anene-Maidoh, said that 583 cases have been lodged before the Court since its inception in 2001, out of which the Court has delivered 131 Rulings, 303 Judgments and given 6 Advisory Opinions. He added that 179 cases were pending before the Court, 54 of them against the Federal Republic of Nigeria.

The delegation of the Court was led by the Vice President, Justice Gberi-bè Ouattara and included Justices Dupe Atoki, Keikura Bangura and Januária Tavares Silva Moreira Costa as well as the Deputy Chief Registrar, the Director, Administration and Finance and key staff of the Court.

GOVERNOR OF NIGERIA'S KWARA STATE HAILS ECOWAS COURT FOR ITS PROGRAMME TO SENSITIZE THE REGION'S CITIZENS



Gov. AbdulRazaq (5th right) flanked by Judges of the Court and other dignitaries

The Governor of Nigeria's Kwara State on Friday, 25th February 2022 hosted a delegation of the ECOWAS Court of Justice to dinner during which he praised the Court for the choice of the State for the campaign as it afforded relevant stakeholders to deepen their knowledge of the Court. The regional institution had been on a weeklong sensitization campaign in the State.

"From the report I have received on the sensitization, it went very well and it enabled a lot of information to be passed to the relevant stakeholders on the procedures for approaching the Court and we now know a lot more about how to engage the Court," Governor AbdulRahman AbdulRazaq said at the state dinner.

He also used the opportunity to brief the delegation on the performance of the government since his assumption of office about 30 months before that has impacted positively on its economy.

"When this administration was inaugurated two and half years ago, we only had one or two airlines coming to the state but now we have four airlines with about eight daily flights to the state," the governor said, adding that as the safest state in the

country, people are now relocating to the state to "do their business peacefully."

The Governor, whose late father was the first lawyer from the country's 19 northern states and served as Chairman of Nigeria's body of benchers, said the Court has come to "a state with a rich history of the strong presence of members of the bench and bar.

"So many of our parents ended up as judges of the Supreme Court and as Senior Advocates of Nigeria," the Governor said, adding that the "legal profession is strongly rooted in the state."

With such a rich legal pedigree, the Governor said its "people will therefore not be surprised when they heard you came here because they know it is the home of the bar and bench" manifested in the commitment of the government to support the judiciary without interfering in its functions.

A judge of the Court, Justice Dupe Atoki, who responded for the Court, used the opportunity to convey the Court's appreciation for the warm reception accorded the delegation since its arrival in the state and the facilities provided which contributed to the success of the campaign.



Law students from the State University and the private Al-Hikmah University during the dedicated Forum

She praised the Governor for “keeping the flag of performance flying” which has significantly transformed the state. She noted that the sensitization campaign was an annual programme of the Court held in the capitals of Member States and designed to improve the knowledge of ECOWAS citizens on the Court to enable them avail themselves of its services.

In the case of Nigeria, she said that the Court decided to extend the campaign beyond the capital because of the country’s size in order to sensitise more Nigerians about the Court.

“We therefore decided to carry out this sensitization in at least one state of the country’s six geo political zones and in the case of the North Central, we chose Kwara State as we progress gradually having held similar campaigns in Lagos State (South West) and Enugu (South East), Justice Atoki said.

On his part, the Chief Judge of the State, Justice Durosinho Kawu said that the hospitality accorded the delegation reflects the cordial relations among the three arms of the government and he used the opportunity to confirm that the Governor does not interfere with the workings of the judiciary and legislature.

In his speech, the Attorney General and Commissioner for Justice, Mr. Salman Jawondo

said the campaign afforded legal practitioners who attended the programme, an opportunity to understand how to approach the Court.

“Most of us in practice have gained tremendously on how to access the Court as being an international court, the ECOWAS Court has jurisdiction for the interpretation of Treaties to which ECOWAS Member States are signatories as well as other treaties of international status that deal with human rights,” he said.

As a specialised court, he added that many people are not aware of its statutes, much less procedures for accessing the court. He expressed the opinion that Kwarans had taken advantage of the campaign and are well enlightened.

The dinner was attended by the Speaker of the State House of Assembly, Right Honourable Yakubu Salihu Danladi; the State Chief Judge, Justice Kawu; Acting Grand Kadi of the Court of Appeal, Justice Abdullateef Kamaldeen; the Attorney General and Commissioner for Justice, Mr Jawondo, who is a member of the country’s inner bar, and the Chairman of the Ilorin Branch of the Nigeria Bar Association(NBA).

The delegation of the Court was led by the Vice President, Justice Gberi-bè Ouattara and also included Justices Keikura Bangura, Januária Tavares Silva Moreira Costa and staff.

COURT PRESIDENT HOSTS AMBASSADOR OF CAPE VERDE OVER 2022 INTERNATIONAL CONFERENCE



Justice Asante (right) presenting documents of the Court to Dr. Silva

The President of the ECOWAS Court, Honorable Justice Edward Amoako Asante on Wednesday, 2nd March 2022 met with the Ambassador of Cape Verde to Nigeria to discuss arrangements for this year's international conference of the Court scheduled to be hosted by the country between 9th and 12th May 2022.

The President used the opportunity to congratulate Dr. Belarmino Silva on his appointment as his country's first ambassador to Nigeria with concurrent accreditation to ECOWAS as well as stress the importance of the international conference to the Court.

"The conference is an important activity of the Court that enables it to bring together legal practitioners, academics and judges, including those that served in the Court, to discuss and proffer solutions to various issues that impact on ECOWAS integration," the President told the ambassador who took up his post in November 2021.

He explained that the conference not only improves the visibility of the Court in the host country but also enables it to engage with senior government officials and other stakeholders on issues pertinent

to the Court.

The President told the Ambassador that the conference will be held on the theme: "ECOWAS integration model: the legal implications of regionalism, sovereignty and supranationalism" and under seven sub themes which will enable the participants to explore various issues related to ECOWAS economic integration as well as the role of regional courts in the regional integration process.

"The conference is an important activity of the Court that enables it to bring together legal practitioners, academics and judges, including those that served in the Court, to discuss and proffer solutions to various issues that impact on ECOWAS integration,"

The Ambassador in his response commended the Court for the honour bestowed on the country to host this important forum and assured the President of the commitment of Cape Verde to ensure a successful conference.

WORKSHOP ON HEAD NOTES HELD NEAR ABUJA



Judges and Staff of the Court after the opening ceremony

A weeklong workshop organized by the ECOWAS Court to enable its legal staff finalise the headnotes for the outstanding law reports of the Court for four years up till 2021 has ended in Nasarawa State, near Abuja, Nigeria's capital.

Head notes are summaries of judgments and rulings which facilitate referencing in law reports by lawyers and researchers. It ensures the uniformity of paging and indicate the legal principles relied on in each case, a summary of the facts, issues for determination and the Decision of the Court.

At the closing ceremony, the Vice President, Justice Gberi-bè Ouattara praised the participants for the rigour of their interventions and the quality of the outcome, noting that the outcome will be subjected to further revisions through different layers of interventions prior to management approval.

At the opening of the workshop on 27th February 2022, the President of the Court, Honorable Justice Edward Amoako Asante explained that the exercise was intended to enable the Court "address the backlog in the publication of the Law Reports of the Court," for the years 2018 and 2021.

The law reports he added, provides the

appropriate platform for exposing the enviable jurisprudence of the Court to judicial institutions and the academic community.

This President noted that this "feat has received global recognition evidenced by the recent award bestowed on the Court as the winner of the 2022 Columbia University Global Freedom of Expression award in the category of significant legal ruling in respect of its decision in the case of Amnesty International Togo, versus the Republic of Togo,"

The President used the opportunity to congratulate his colleague judges 'whose tireless efforts have been rewarded,' stressing the importance of ensuring that the decisions of the Court are globally accessible through the timely publication of law reports.

He said that the last law reports of the Court were for 2014 and 2015 and that the participants are expected to finalise the headnotes for the 175 outstanding rulings and judgments of the Court produced by its legal staff.

The workshop was attended by the judges and legal staff of the Court.

THE WORKSHOP IN PICTURES



MORE PICTURES FROM THE WORKSHOP



EXTERNAL COURT SESSION HELD FOR THE FIRST TIME IN GHANA IN 2022



The Law Courts Complex, venue of the Session

Ghana hosted for the first time, the external court session of the Community Court of Justice, (CCJ) ECOWAS, since the introduction of the programme in March 2007 in Mali.

Sixty (60) pending cases were listed for the session, and scheduled to take place at the Law Court Complex in Accra over 11 days, from Monday March 21, 2022, as per the Cause List released by the Court.

Judgments were scheduled for delivery in 25 of the cases listed for the external sitting in Accra while the remaining 35 were for hearing. The external court session which is a key element of the ECOWAS Court's annual work programme was being hosted by Ghana this year, in response to several requests.

"The essence of the program is to bring justice to the common man at the Community's grassroots, especially the indigent citizens who could otherwise not afford the cost and logistics of travelling to the seat of the Court in Abuja to access justice," the President of the Court, Honorable Justice Edward Amoako Asante said.

Furthermore, the President said the session avails the Court of the opportunity for judicial dialogue with national courts of Member States and exposes lawyers and Community citizens to the Practice and Procedure of a regional court. It also enables the

Court to engage with high political authorities of the host Member State and serves as a citizen outreach opportunity for the Court on its competence, mandate as well as practice and procedure of the Court.

Citing Article 26 (2) of the 1991 Protocol on the Court, Justice Asante said the protocol allows the Court to undertake such sessions in the territory of Member State outside the Headquarters of the Court 'where circumstances or facts of the case so demand' and based on an order of the Court convened by its President.

The order for the Accra session was dated 29th October 2021 and signed by Justice Asante. The President of the Court said that since its introduction, similar sessions have been held in Niamey, Ouagadougou, Porto-Novo, Ibadan (Nigeria), Lome, Guinea Bissau, Abidjan (twice) and Bamako.

Despite the importance of the session, he said it could not be held in 2019 and 2020 because of the Covid-19 pandemic which compelled the Court to integrate remote hearings for cases.

The session was declared open on Monday, March 21st, 2022 by the President of the Republic of Ghana, His Excellency Nana Addo Dankwa Akufo-Addo who was also the Chairman of the Authority of Heads of State and Government of ECOWAS.

PRESIDENT CALLS FOR THE STRENGTHENING OF THE LEGAL FRAMEWORK FOR ECOWAS INTEGRATION



President Asante delivering his opening Speech

The President of the ECOWAS Court of Justice, Justice Edward Amoako Asante has spoken of ‘gaps’ in the legal framework of the ECOWAS integration project that need to be strengthened in order to align the Community’s objectives with the requisite legal architecture necessary for the attainments of its objectives.

“ The European Union remains the model for regional economic integration and we may do well to learn from the established legal framework of the European integration project,” the President said on Monday 9th May 2022 while opening the four-day international conference of the Court in Praia, Cape Verde.

The President noted that every regional integration project is anchored on a legal framework, around which policies and decisions of the integration project revolve and which governs the legal relationship between the Member States of the Community and the supranational organization created by the Member States to drive the integration project.

Justice Asante said that since the formation of any Regional Economic Community (REC) is Treaty based, it was important to provide the enabling legal environment, reinforced by an identifiable Community legal order, that facilitates the attainment of the Community objectives.

This, he added, should be supplemented with a strong and independent Regional Court with Treaty supervision and oversight functions to facilitate the integration project, noting that the conference will provide the participants with the opportunity to review the legal relationship between regional economic integration and regional protection of human rights, which has become the Court’s defining mandate.

“The legal framework in most regional integration systems usually implies the direct applicability of Community norms in the Member States and the rights of Community citizens to invoke Community norms before the national courts of the integrating Member States,” he added.

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

Consequently, he said that since the Community legal order is the fulcrum of any integration arrangement, the conference represents “a golden opportunity for the participants to evaluate the existing legal framework of the ECOWAS integration project and the ECOWAS legal order. In this regard, he said the conference will place on the front burner, the essential issues in the establishment of a functional legal framework in a regional integration arrangement as well as the shortcomings and challenges in the ECOWAS integration legal framework model.”

In choosing the “ECOWAS Integration Model: The Legal Implications of Regionalism, Sovereignty and Supra-nationalism” as the theme of the conference, the President said the intention was to focus attention on the essential ingredients for a regional integration arrangement, particularly the ECOWAS model that takes cognizance of the identified issues. The President pointed out that the themes and sub themes are not only linked to the regional economic integration objectives of the community and the legal framework for the achievement of the Community objectives but also relevant to the mandates of the various ECOWAS Institutions.

He said the array of highly distinguished panelists, consisting of legal experts, jurists and professors of law involved in the conference were carefully chosen because of their expertise and wealth of experience.

Justice Asante explained that in recognition of the importance of the political will of Member States to the achievement of Community objectives, representatives of Member States have been invited along with the Chief Justices of some Member States and other stakeholders.

He also highlighted the challenges confronting the Court including the 2018 reduction in the number and tenure of the Judges despite its burgeoning case burden as well as the absence of a functional Community Legal Order that defines the legal relationship between the Member States and the

ECOWAS Institutions. He also mentioned the relationship between the ECOWAS Court of Justice and the national courts of Member States.

He paid tribute to the Sweden-based Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), for collaborating with the Court in hosting the conference.

In his speech, the President of the ECOWAS Bank for Investment and Development (EBID), Dr George Agyekum expressed concern about the ‘historical’ difficulty experienced by the bank in enforcing judgments against its debtors operating in multiple jurisdictions.

“ This is further compounded by the unwillingness of some local authorities to apply principles espoused by the Community Court of Justice, “ the President of the Lome-based bank said, noting that the gaps in the general legal infrastructure adversely impacted the region’s ability to attract investment although it had sought to explore the existing legal framework.

He added: “ The legal framework rests at the core of business risk calculations making it a key factor in the success of business initiatives and in the long term, economic growth and it is imperative that we develop solutions to the issues that plague it.”

The EBID Chief Executive stressed that the region’s economic integration will not be successful unless measures are implemented to give companies, especially Small and Medium Enterprises (SMEs), “ a modicum of predictability and certainty in entering international transactions that could be factored into costs and reflected in pricing.”

He therefore urged all stakeholders to consider three issues mainly framing treaties and existing protocols to fast track integration; championing initiatives that incentivize countries to refer cases to the Court especially those involving international plaintiffs and to concretise efforts to equip local courts to enforce judgments of the Court through legislations in the various jurisdictions.

Some 150 participants mainly members of the academia, jurists and lawyers as well as representatives of ECOWAS Member States, participated in the conference.

PRESIDENT NEVES URGES INNOVATION IN ECOWAS' RESPONSES TO CHALLENGES CONFRONTING THE REGION



President Neves (2nd Left), Justice Asante (1st right), Justice Ramos, (2nd right) and Dr. Rosa Amado.

President José Maria Neves of Cape Verde has challenged the 15-member ECOWAS Community to take creative steps towards addressing the peculiar challenges restraining the region from actualizing its principal objective of integration just like other Regional Economic Communities (REC's).

In a speech at the opening of the 2022 international conference of the ECOWAS Court of Justice on Monday, 9th May 2022 in Praia, the President said the promotion and consolidation of democratic systems of government, tolerance and respect for human rights as well as the elimination of all types of discrimination are the primary issues that should concern the 47 year old Community, including the Court.

He acknowledged the enormous importance of the Court in the protection of human rights within the Community but stressed the need for the creation of a legal framework that will ensure the principle of complementarity between the ECOWAS Court and National Courts.

President Neves underlined the importance of regional integration to his country which has influenced its internal and external policies but

noted that as the only insular state in the region with the smallest population, land area and limited natural resources, the country was extremely vulnerable and sensitive to external shocks, especially in the economic-financial domain as well as climate and environmental issues.

Such conditions, he emphasized, made it imperative to work towards full regional integration but with the national interest of the country accommodated and protected.

President Neves added that this should be the basis for building strategic dialogues and partnerships with the country taking cognizance of its position in the Atlantic as a corridor for peace, security and development.

The President also spoke of the effect of recent global events which has added to the complexity of the international environment and urged ECOWAS to provide the inspiration for the adoption of dialogue and negotiation towards the resolution of misunderstandings, differences and disputes.

In remarks earlier, the country's Chief Justice, Justice Benfeito Mosso Ramos, described the conference as historic, being the first time the ECOWAS Court has

hosted such a large forum in the country that attracted about 150 participants drawn from the region's academia, jurists and lawyers.

He described it as an opportunity to reflect on the best model of regional integration while sharing knowledge that contributes to improving the lives of ECOWAS citizens.

Justice Ramos, who was a Judge at the ECOWAS court for five years and also served as its Vice President, acknowledged that the experience enriched him as a jurist and broadened his horizon in the field of international law.

He noted that the Court has delivered landmark decisions which underscored its importance to the Community such that ECOWAS can no longer be contemplated without the Court.

Earlier, the country's Minister of Justice, Dr. Joana Rosa, said that in hosting the conference, Cape Verde has further demonstrated its commitment to deepen its integration into ECOWAS.

As a full member of ECOWAS since its creation in 1976, the Minister acknowledged that the country's true integration into the region has not always been satisfactory and more efforts needed to be made to ensure the profitable integration of Cape Verde with the other countries of the Community.

“ ...since its creation in 1976, the Minister acknowledged that the country's true integration into the region has not always been satisfactory and more efforts need to be made to ensure the profitable integration of Cape Verde with the other countries of the Community. ”

She maintained that Cape Verde desired regional integration should take into consideration the country's territorial, demographic, economic, and cultural specificities.

Dr Rosa said the conference provided an opportunity to discuss the model of integration that best suits the region against the background of its political history and legal diversities.

Participants at the four-day hybrid conference discussed the “ECOWAS Integration Model: The Legal Implications of Regionalism, Sovereignty and Supra-nationalism”, the theme of the conference under seven sub themes that examined the various dimensions of the region's integration.



The main entrance to the University of Cabo Verde, venue of the Conference

WEST AFRICAN JURISTS, ACADEMICS AND LAWYERS PROPOSE MEASURES FOR A MORE EFFICIENT ECOWAS COMMUNITY AT INTERNATIONAL CONFERENCE



Justice Desmond Edwards
Chief Justice of Sierra Leone

Community Court of Justice to examine the ECOWAS model of integration have urged the Community to establish a mechanism for monitoring the implementation of Community Laws and strengthen its regulatory functions and commonality in order to achieve the higher degree of supranationalism necessary for the full integration of the region.

In wide ranging recommendations at the end of the four-day conference in Praia, the participants noted that deadlines are hardly met by the Community, thereby making the integration process cumbersome. They therefore recommended the establishment of a monitoring and evaluation mechanism for the continuous appraisal of the preparedness of each Member State towards targets set with a view to assisting those not committed or making good progress to meet the targets.

In addition, they challenged Member States and ECOWAS to create the opportunity for the region's citizens to play a greater role in the integration process by ensuring political stability and creating the legal environment conducive for the implementation of economic integration policies. Consequently, they called for the review of the current legal regime in the Community to ensure the direct applicability of Community Texts in Member

States while Community citizens should be empowered to enable them invoke Community Laws before national courts.

The participants, who were mainly academics, jurists, lawyers, Chief Justices of Member States, representatives of national Bar Associations and ECOWAS national offices, urged Member States to establish a peer review mechanism similar to that of the African Union to monitor compliance of Member States with their Community obligations.

Moreover, they stressed the need for Member States and the ECOWAS Commission to take steps to harmonise the legal and judicial systems of the Community in accordance with the extant provision in the Revised Treaty so as to promote synergy between the ECOWAS and national courts. As part of this process, they suggested that the national courts of the Member States should be encouraged to make referrals to the regional court on Community Law and cite the judgments of the Court in their jurisprudence.

They noted that despite the supranational features of the Community through successive Treaty



Alioune Sall
A former Judge of the Court



Prof. Ernest Kofi Abotsi
Dean Faculty of Law, University of Professional Studies, Accra, Ghana

intergovernmental model and recommended the strengthening of its supranational features by enhancing the powers of the Commission in addition to granting the Court jurisdiction to hear cases filed by individuals in respect of ECOWAS Laws.

Furthermore, they encouraged Member States, host communities and investors to explore the dispute resolution mechanism of the regional court in compliance with the ECOWAS Investment Code to enhance Foreign Direct Investment (FDI) into the 15-member Community.

In addition, the participants urged Member States to ensure the smooth implementation of the regional Investment Policy and Codes as a single economic legal framework to ensure the promotion, facilitation, protection and sustainability of cross border investment.

Member States were also urged to support the ECOWAS Business Council (EBC) in its desire to promote economic development and create jobs through capacity building of Small and Medium – Scale Enterprises (SMEs) as well as implement the ECOWAS Common Investment Code, which was adopted in December 2018 at the 54th Ordinary session of the Authority of Heads of State and Government of ECOWAS while the policy was adopted at the 56th ordinary session of the Authority on 21st December 2019.

In order to address the pervasive poor knowledge

of the Court and its work in the region, the participants urged the Court to undertake regionwide advocacy in collaboration with Civil Society Organisations (CSO's) and relevant stakeholders in Member States as well as make its Protocols, Law Reports and Rules of Procedure available to national judiciaries and bar associations.

Additionally, they urged the Court to engage municipal judges of Member States through regular judicial dialogue as well as encourage frequent interaction between the Bar Associations of Member States and the Academia for information and experience sharing on how to ensure the integration of Community Laws into the domestic legal system.

In order to deepen the involvement of citizens in the integration process, they called for wider participation in such conferences and the creation of breakout sessions for students, women groups and civil society. Member States were also encouraged to include Community education; objectives, goals and norms of ECOWAS at all levels of schools' curriculum to create a sense of Community identity while the Universities should also include Community studies and Community law in their curriculum.

Moreover, the Court was urged to sustain its training programmes for lawyers, judges and the academia in the Member States. The remaining nine Member States yet to appoint their competent national authorities for the enforcement of the judgments of the Court were advised to do so without further delay.

The participants expressed concern at the reduction in the size and tenure of the judges of the Court because of the negative impact on its effectiveness. They requested Heads of State and Government of

“
As part of this process, they suggested that the national courts of the Member States should be encouraged to make referrals to the regional court on Community Law and cite the judgments of the Court in their jurisprudence.
”



Prof. Philip Ebow Bondzi-Simpson
Founding Dean, Faculty of Law, University of Cape Coast

the Community to restore the composition and tenure of the judges in line with the provision of its 1991 Protocol by increasing their number to seven from the present five and their tenures from four years non renewable to five years renewable for another term of five years.

Among the other recommendations were that Member States should domesticate the Revised Treaty and Protocols on the Court and enact implementing legislation to facilitate the enforcement of judgments of the Court by national courts.

They also urged the Community to establish a mechanism for the effective implementation of the Protocol on Free Movement to ease the mobility of Community citizens and remove all barriers and obstacles. In addition, Member States should ensure compliance with the provisions of the Protocol on Free Movement and play their coordinating role including implementing the provisions regarding the right of residence and establishment while ensuring the removal of all discriminatory practices.

Moreover, they urged the States to recognize the ECOWAS National Biometric Identity Card (ENBIC) as a travel document in accordance with the Protocol and integrate into the ENBIC regime in order to facilitate the unfettered mobility of ECOWAS Citizens and enhance the security architecture of the Community. Member States that are yet to adopt the ENBIC are encouraged to do so

“Member States were also encouraged to include Community education; objectives, goals and norms of ECOWAS at all levels of schools’ curriculum to create a sense of Community identity...”

as soon as possible.

In order to ease communication with immigration officials and aid the free movement of Community citizens between borders, they urged Member States to ensure the training of immigration officials on basic communication in the three Community languages while advocacy and sensitization should be undertaken for Community citizens, Judges, critical stakeholders in ECOWAS Institutions and in Member States about the provisions of the ECOWAS Protocol on Free Movement and other key ECOWAS Community texts.

Finally, they urged the ECOWAS Commission to take necessary steps to trigger the sanctions mechanism in relation to Member States that fail to fulfil their Community obligations.

The conference, the first to be hosted by the Court in Cabo Verde, was held on the theme: “ECOWAS Integration Model: the legal implications of regionalism, sovereignty and supranationalism.”

During the session, the 150 participants at the conference interrogated various dimensions of the ECOWAS integration project under seven sub themes.



Dr. Hernani de Oliveira Soares
President of Cape Verde Bar Association

PICTURES OF OTHER PANELISTS AT THE CONFERENCE



MEMBER STATES SHOULD SHOW MORE COMMITMENT TO THEIR COMMUNITY OBLIGATIONS FOR THE CREATION OF A FUNCTIONAL ECOWAS MARKET – GUEST SPEAKER

The keynote speaker at the 2022 International conference of the ECOWAS Court has called on ECOWAS Member States to show more commitment to their Community obligations and dismantle national obstacles militating against the creation of a functional ECOWAS common market.

While acknowledging that there has made a visible transformation of the ECOWAS over the past 47 years particularly in the efforts to strengthen the Community institutions to play a more central role in the integration process, Professor Solomon Ebobrah argued that ECOWAS remained largely an intergovernmental arrangement because the common market over which Community institutions can exercise supranational authority has been too slow to emerge completely.

“A big obstacle remains the fact that no real ECOWAS Market outside the national control of the Member States exists, over which the Authority or any other Community institution can exercise regulatory control” Professor Solomon Ebobrah said in his presentation. As a result, he argued that the national laws and policies of Member States continue to regulate even economic related matters which ought to come under the regulatory purview of the Community institutions.

In the 26 page presentation which explored various aspects of the ECOWAS Integration Model, the Professor of Law identified three distinct epochs in the evolution of ECOWAS, with each succeeding epoch characterised by an apparently stronger determination by Member States to transfer more powers to ECOWAS institutions as a means to ensure a faster realisation of the integration objective.

Drawing from the robust literature on regional integration in Europe, Professor Ebobrah traced the emergence of concepts such as regionalism, intergovernmentalism and supranationalism. Citing the works of European integration scholars like Ernest Haas, Schmitter, Claude and Schutze, the guest speaker pointed out that the loss of some attributes of sovereignty and the creation of “common and permanent institutions capable of



Prof. Ebobrah delivering the Keynote address

making decisions binding on members” were unavoidable features of successful integration.

Professor Ebobrah, who is the Director of the Institute for Niger-Delta Studies at Nigeria’s Niger-Delta University, attributed the uniqueness of European Union integration model to its readiness to imbibe the critical aspects of integration. Moreover, Member States of the European Union were willing to shift from the regular form of inter-state relationship recognised in public international law and abandon the ordinary forms of international treaties to achieve its regional integration objectives.

He added: “Effectively, it can be said that the European style of integration is an invitation for states to move beyond the privileges of statehood

and diplomacy associated with public international law, to the extent that Europe-style integration requires those states to sacrifice some attributes and thus, some attendant consequences of sovereignty that public international law takes for granted.”

Over time, he said, the European Union acquired a ‘constitutional character’ extending beyond the boundaries of public international law which transformed nature and scope of rights and obligations for states and citizens.

Citing Alec Stone Sweet and Thomas Brunell, he said, “constitutionalism in European integration is ‘the process by which the EC treaties evolved from a set of arrangements binding upon sovereign states, into a vertically integrated legal regime conferring judicially enforceable rights and obligations on all legal persons and entities, public and private within the sphere of application of EC law”.

He identified the unique feature of the EU integration process as its subscription to the convergence of ‘international and constitutional’ in contrast to intergovernmentalism founded basically on public international law, emphasising that integration necessarily emerges as a creation of international law with its intergovernmental attributes but can grow into a sophisticated supranational organisation. Professor Ebobrah argued that both intergovernmentalism and supranationalism can exist in a continuum in the integration process.

Consequently, he called for a deep reflection on the claim to the existence of a unique ECOWAS model of integration and the legal implications of ECOWAS’ present mode of operation during the four day conference which opened on Monday, 9th May 2022 in Praia, Cabo Verde.

He said that economic integration can be viewed from the perspective of a market-creating part “which requires congregating states to remove national constitutional, legal and other obstacles to the emergence of the proposed or agreed form of integration” while the “market-regulating part involves the enactment, monitoring and enforcement of norms in the market so created.”

He added that “the market-creating function is more suited to the intergovernmental approach while the market-regulating function entails a supranational approach which may be either in the form of a pooling of sovereignties or some

delegation of sovereignty to supranational organs of the created organisation.”

He stated that ECOWAS was at the market-creating stage of integration which required the Member States to implement decisions and comply with obligations undertaken through their intergovernmental legislative actions. Prof Ebobrah stressed that ECOWAS Member States do not have lesser legal obligations as regards compliance and implementation even if majority of these obligations arose from intergovernmental acts of Member States themselves, pointing out that the principles of the Vienna Convention on the Law of Treaties applied strictly to these Community obligations.

Furthermore, he described integration as a process rather than an event, adding that though ECOWAS institutions were created to help build the integration process, they were not yet empowered to function independent of the governments of Member State as a supranational entity.

“ ...the market-creating function is more suited to the intergovernmental approach while the market-regulating function entails a supranational approach which may be either in the form of a pooling of sovereignties or some delegation of sovereignty to supranational organs of the created organisation. ”

Prof Ebobrah emphasized that supranationality does not come about by legislative or judicial fiat but required the commitment of Member States to actualise a deeper level of integration. He therefore reminded Member States of the need to surrender parts of their sovereignty in order to move the region’s integration process as well as accept mutual interference in one another’s domestic affairs as desirable for the Community interest

The four-day hybrid conference was attended by participants from the academia, the judiciary, representatives of civil societies and ECOWAS national units in Member States. A total of 25 presentations were made under seven sub-themes flowing from the central theme of: “ECOWAS Integration Model: The Legal Implications of Regionalism, Sovereignty and Supranationalism.”

ECOWAS COURT JUDGE CALLS FOR INSTITUTIONALISATION OF FORUM OF THREE OF AFRICA'S REGIONAL COURTS FOR ISSUES OF HUMAN RIGHTS

A judge of the ECOWAS Court of Justice has called for the institutionalization of the tripartite judicial dialogue of three of Africa's key regional and sub regional courts in order to provide a platform for the discussion of issues of common interests regarding the protection of human rights.

At the opening of the inaugural tripartite judicial dialogue of the East African Court, the ECOWAS Community Court of Justice and the African Court on Human and Peoples' Rights on Monday, 27th June 2022 in Zanzibar, Justice Dupe Atoki said that the dialogue will provide an opportunity for regular interaction and exchange of ideas among the judges of these courts.

"Without doubt, these three courts are the key regional and sub-regional courts in Africa (and) while the African Court on Human and Peoples' Rights and ECOWAS Court of Justice have direct mandates on human rights, the East African Court of Justice has an indirect mandate on human rights," she added.

Moreover, she noted that the three courts interpret and apply the African Charter on Human and Peoples' Rights and acknowledged the role of partner organizations, as part of their mandate, to ensure the promotion and protection of human rights.

Justice Atoki, who led the four member ECOWAS Court delegation to the dialogue, praised the forum as "laudable" and expressed the hope that the outcome would be beneficial to judges of the Courts' and partner organisations.

She also spoke on the evolution of the Court from an interstate court at inception with the sole responsibility for the interpretation of Community texts to a court with four mandates. She noted that its human rights mandate, which it was granted in 2005 as part of the expansion of its mandate, has become the epicenter of its judicial activities and around which its jurisprudence has flourished.

Justice Atoki added: "We are proud of the work of the ECOWAS Court in protecting the civil liberties of ECOWAS Community citizens and other nationals in the territory of ECOWAS Member States, as evidenced from its robust jurisprudence.



"... We are glad that the Court has gained international recognition for its work in the protection of human rights," she said, recalling that the Court was in March this year awarded the Global Freedom of Expression prize by Columbia University based on its 2021 decision in the case of Amnesty International, Togo against the Republic of Togo.

"Today, we can proudly say that the ECOWAS Court of Justice is a pace setter amongst its peers in Africa," she emphasized.

She noted that a key distinctive element of the procedure of the Court compared to similar international human rights courts, is the requirement for the non-exhaustion of local remedies before approaching the Court. Such applications, she added, should not be anonymous nor made whilst the same matter has been instituted before another International Court for adjudication.

Also on the Court delegation to the dialogue are Honorable Justices Keikura Bangura, Januária Tavares Silva Moreira Costa as well as the Chief Registrar, Mr. Tony Anene-Maidoh.

The three-day dialogue is being facilitated by the Swedish-based Raoul Wallenberg Institute of Human Rights and Humanitarian Law.

COURT VICE PRESIDENT BEMOANS THE WEAK APPLICATION OF COMMUNITY LAWS BY MEMBER STATES



Justice Gberi-Bè Ouattara (6th right) and other guests at the opening ceremony

The Vice President of the ECOWAS Court of Justice on Thursday, 9th June 2022 bemoaned the poor application of Community law by the national courts of ECOWAS Member States saying that this impacted negatively on the growth of the law and the region's integration project.

"In twenty years of operation, the Court has never been seized of a referral by a national court," Justice Gberi-bè Ouattara said at the opening of the first ordinary session of the ECOWAS Parliament for the year 2022 during which the parliamentarians will consider various reports, hold an interactive session with the regional civil society and consider the report of the President of the ECOWAS Commission on the implementation of the Community work programme.

Justice Ouattara who represented the President of the Court, Honorable Justice Edward Asante Amoako at the ceremony, also blamed the situation for the poor knowledge of the Court despite its enviable jurisprudence and the various sensitization campaigns and external court sessions in Member States designed to improve public awareness of its activities and bring it closer to the citizens.

He also expressed concern about the absence of nationally designated focal points for the execution of the Court's decisions in most of the Member States stressing the importance of the authority "as the focal point between the Court and the Member States on one hand and the Court and the applicants who are the beneficiaries of the decisions of the Court and therefore have a stake in the enforcement of its decisions."

He also challenged Member States to domesticate the Community's legal instruments, particularly the

Revised Treaty and the Protocols of the Court which they have signed, adding that the affected States were taking too long to trigger the procedure for the domestication of these instruments.

Furthermore, he noted that the operations of the Court were being hampered by the reduction in the number of judges from seven to five and their tenure from five years renewable to four non-renewable which impacts negatively on its effectiveness despite its burgeoning case docket.

In view of the important role of the Court in the ECOWAS integration process, the Vice President urged regional parliamentarians to contribute towards the resolution of these challenges including helping to improve the awareness of the Court and the application of Community law in their States.

Justice Ouattara described the session of parliament as a gigantic gathering that provides the opportunity for each West African citizen to participate through their parliamentarians in the ECOWAS integration project.

The opening ceremony of the first ordinary session was marked by the opening address of the Speaker of the Parliament as well as messages from the President of the ECOWAS Commission, which was delivered by the Commission's Vice-President, the President of the Nigerian Senate and the Speaker of the country's National Assembly.

There were also messages from the President of the National Assembly of the Gambia and the Vice-President of the National Assembly of Senegal.

The ceremony began with the swearing in of new parliamentarians.

