



FIFTH JUDICIAL DIALOGUE

THEME: BUILDING TRUST IN AFRICAN JUDICIARIES

UNITED REPUBLIC OF TANZANIA

DAR ES-SALAAM

4-5 NOVEMBER 2021

I. Organisation and objective

1. Under the auspices of the African Union, the African Court on Human and Peoples' Rights (the Court) organized the Fifth Judicial Dialogue (5th Judicial Dialogue) on the theme: "Building Trust in African Judiciaries" from 4-5 November 2021 in Dar es Salaam.

2. The main objective of this Judicial Dialogue was to identify ways and means for their judiciaries to play its role to foster justice in Africa and to establish lasting trust, between justice actors and litigants.
3. The Fifth Judicial Dialogue was conducted in English, Arabic, French and Portuguese. The dialogue was held in a hybrid manner, both physically and virtually.

II. Opening Ceremony

4. In her welcome address, the Honourable Justice Imani D. ABOUD, President of the African Court recalled the importance of the theme which may require contextualisation, due to the diversity of the judicial systems in Africa. She also observed that, with regard specifically to the effectiveness and efficiency of judiciaries, there could not be a better time to recall the principles of complementarity and subsidiarity. She noted the role played by the African Court in building trust in African judiciaries, in particular through the application of the provisions of the Charter.
5. In his address, the Honourable Deo John Nangela, Judge of the High Court of Tanzania, representing the Honourable Justice Ibrahim Juma, Chief Justice of Tanzania, observed that trust in the judiciary guarantees development, stability and peace in a society. He noted that Africans have strong expectations that the judiciary of their country be independent, impartial, effective and efficient. He stated that Tanzania has undertaken important reforms to build trust in the judiciary, in particular, through increased digitalisation of proceedings, and by building the capacity of judicial actors.
6. In his opening address, H.E. Phillip I. Mpango, the Vice President of Tanzania praised the role played by the African Union in institutionalising and sustaining the Judicial Dialogue, which demonstrates the importance that the continental organisation attaches to justice. H.E. the Vice-President stressed that trust is the

cornerstone of all good justice systems and a guarantee of stability and social cohesion.

7. He affirmed that the choice of the theme of this judicial dialogue undoubtedly points to the fact that Africans have limited trust in their judiciaries, due to slow processes, cost and corruption.
8. He acknowledged that independence, impartiality, the fight against corruption as well as digitalisation are essential elements required to build the trust of the people in the judiciary.
9. Furthermore, H.E. the Vice-President declared that Justice, in particular, that of human rights, is valuable to him. He reiterated the commitment of Tanzania, as the host country of the African Court and of so many other sub-regional and international courts, to the respect and protection of fundamental human rights, in all their forms.
10. He stated that Tanzania withdrew its Declaration accepting the jurisdiction of the African Court only after much reflection and consultation as a result of declining trust in the African Court. He reiterated Tanzania's commitment not only to continue engaging with the African Court but also to fulfil its obligations under the hosting agreement.
11. He ended his speech on a hopeful note, saying that he was sure a solid foundation will be laid at the end of this meeting. H.E. the Vice-President declared the Fifth Judicial Dialogue open and wished participants fruitful discussions.

III. PARTICIPANTS

12. Present at the Fifth Judicial Dialogue in Dar es Salaam were the judicial authorities (Supreme Court Presidents or their representatives) of thirty- nine Member States while others participated in the Judicial Dialogue online. These were Algeria, Botswana, Burkina Faso, Cameroon, Comoros, Congo, Côte d'Ivoire, Djibouti,

Egypt, Eswatini, Ethiopia, Eritrea, Gabon, The Gambia, Ghana, Guinea-Bissau, Kenya, Lesotho, Libya, Madagascar, Mali, Mauritius, Mauritania, Morocco, South Africa, Mozambique, Namibia, Niger, Uganda, Sahrawi Arab Democratic Republic, Central African Republic, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, South Sudan, Togo, United Republic of Tanzania and Zimbabwe.

13. The following institutions were also represented:

- The African Commission on Human and Peoples' Rights;
- The African Committee of Experts on the Rights and Welfare of the Child;
- The Court of Justice of the Economic Community of West African States;
- The African Union Commission on International Law
- The Court of Justice of the West African Economic and Monetary Union;
- The Judicial Instance of the Arab Maghreb Union;
- The African Union Commission;
- The African Union Administrative Tribunal;
- The Office of the Legal Counsel of the African Union;
- The European Union delegation at the African Union;
- The GIZ African Union Office.

14. Former judges of the African Court on Human and Peoples' Rights were also present.

15. Also present were other stakeholders such as the media, civil society organisations and resource persons.

16. In total, the Fifth Judicial Dialogue brought together one hundred and twenty-seven (127) participants from various national and international judicial systems as well as African Union organs.

IV. Topics and sub-topics discussed during the Judicial Dialogue

17. The four sessions of the Judicial Dialogue focused respectively on:
 - A. The report on the implementation of the recommendations of previous Judicial Dialogues.
 - B. The independence and impartiality of the judiciary
 - C. The effectiveness and efficiency of the judiciary

V. Conclusions and Recommendations

18. After two (2) days of discussions, participants at the Fifth Judicial Dialogue adopted the following recommendations:

A. On Implementation of the recommendations of previous Judicial Dialogues

19. Participants recalled that during the judicial dialogues several decisions were taken concerning the African Judicial Network, online courses on human rights for national judicial authorities, the promotion and consolidation of continuing legal education in Africa, the use of information and communication technologies (ICT) in national judicial systems.

B. On Establishment of the African Judicial Network

20. Participants recommended that, in addition the implementation of the African Judicial Network, African Union states should increase funding to the Judiciary for accelerated digitization of national judicial systems.

C. On Online courses on human rights for judicial authorities in African countries

21. Participants recommended that the Court continue its efforts to start the online human rights courses in early 2022.

D. On Promotion and consolidation of continuing judicial education in Africa

22. Participants recommended that the report be reviewed by the committee on implementation of the recommendations of the judicial dialogues in the first half of 2022 for it to be sent to the heads of judiciaries of the African Union member states for observations and/or adoption.

E. On Use of information and communication technologies (ICT) by judiciaries

23. Participants recommended that a report be prepared on the level of use of information and communication technologies by African judiciaries as well as the technical, financial and human measures required for a significant improvement in the short and medium term.
24. Participants recommended the sharing experiences and the establishment of connected judicial systems even at bilateral levels as well as the provision of substantial funding to improve the use of ICT in their judiciaries.

F. On Independence and impartiality of the judiciary

25. Participants observed that establishing the rule of law, consolidating democracy and trust in the judiciary inevitably requires an independent and impartial judicial authority, which ensures that the proper functioning of the judiciary is the essence of the rule of law.
26. Participants noted that irrespective of the differences between the major legal systems in Africa (Common Law, Arabo-Islamic and Civil Law), the main rules for guaranteeing the independence and impartiality of judges are the same.

27. Participants acknowledged that there is trust in an independent and impartial judicial system when there is a clear separation of the executive, legislative and judicial functions, when judges are subject to the sole authority of the law, a transparent and fair appointment procedure that is not subject to the will of the executive, the principle against non-consensual mobility of judges, the drawing up of clear rules of ethics as well as financial security during and after the judges' term of office.
28. Participants also noted that the concepts of independence and impartiality are not limited to national judicial systems only but equally important to the international justice system.
29. Participants also observed that the requirements of independence and impartiality may be compromised by flawed appointment rules and the duration or renewal of judges' term of office.
30. Participants however noted the importance of balance between the safeguards intended to strengthened the independence of judges and their judicial accountability. The sanctioning of a judge should be subject to specific and strictly regulated conditions.
31. Based on these observations, participants made the following recommendations
 - i. The African Court draw up a questionnaire to be sent to the various African States with the various legal systems. Based on the responses, it should draw up a comparative table of rules guaranteeing independence and impartiality.
 - ii. Make representations, at the initiative of the African Court, to the relevant authorities of the African Union for the purpose of establishing continuing judicial education.

- iii. The African Court strengthen the rules guaranteeing the independence of Judges, in particular with regard to remuneration, an adequate pension scheme, improvement of their working conditions, the appointment of Judges, the principle against non-consensual mobility of judges, as well as all other innovative reforms, which allow domestic Judges to do their work with full independence and impartiality.
- iv. The African Court intensify the fight against judicial corruption
- v. The Superior Council of the Magistracy, or the body that appoints and manages the careers of judges, should be chaired by a judge.

G. On Efficiency and effectiveness of judiciaries

- 32. Participants observed that judiciaries face numerous challenges in terms of their efficiency and effectiveness, particularly with regard to the length of proceedings, the lack of access to justice for all due to inadequate financial resources, the lack of specialisation of judge and low-level computerisation of judiciaries.
- 33. Participants recognized the need to impose legally binding timelines within which cases must be decided, and to increase the digitisation of judicial procedures through accelerated computerisation of judiciaries with a view to reduce the length of proceedings.
- 34. Participants also recognised the need to build capacity through specialisation of judges in all areas of law, as well as the need to boost the capacity of prosecutors and lawyers by implementing regular programs on substantive and procedural law, and through exchanges at the regional or subregional level.
- 35. Based on these conclusions, participants recommended to the States:
 - i. Increased budgetary allocations to judiciaries

- ii. Improved training of judges through the establishment of high-level training institutes, as well as the introduction of continuous training for judges.
- iii. Recruitment of more judges
- iv. Enhanced digitalization of judicial systems to improve file management and to accelerate judicial procedures.
- v. Greater judicial cooperation between African countries, including with and between regional and sub-regional courts, in order to allow for experience sharing and training of judges.
- vi. Developing and/or improving a performance benchmarking system for assessing the effectiveness and efficiency of African judicial systems as well as those of regional and sub-regional jurisdictions.

H. Date and place of the next African Judicial Dialogue

- 36. Participants decided that the Sixth African Judicial Dialogue will be held in 2023 at a place and date to be determined.

I. Closing Ceremony

- 37. The closing ceremony featured vote of thanks by the representative of participants, and the closing speech by Honourable Imani D. Aboud, President of the African Court on Human and Peoples' Rights.
- 38. Participants expressed their gratitude to the Government and people of Tanzania for their hospitality and the facilities made available to them to ensure the success of the Fifth African Judicial Dialogue.

39. Participants also thanked the African Court for organizing the Judicial Dialogue as well as the African Union Commission, the European Union and GIZ for their support.