

**ECOWAS COMMUNITY COURT OF JUSTICE**



**INTERNATIONAL CONFERENCE OF THE ECOWAS COMMUNITY  
COURT OF JUSTICE**

**THEME:**

**“ECOWAS ZERO TOLERANCE FOR UNCONSTITUTIONAL  
CHANGE OF GOVERNMENT”**

**FINAL COMMUNIQUÉ**

**HELD AT THE SIR DAWDA KAIRABA JAWARA INTERNATIONAL  
CONFERENCE CENTRE  
BANJUL, THE GAMBIA**

**FROM 22 TO 25 MAY 2023**

1. The ECOWAS Court of Justice organised its ninth international conference at the Sir Dawda Kairaba Jawara International Conference Centre, in Banjul, The Gambia, from 22 to 25 of May 2023. The international conferences provide a forum for the Court to examine important and topical thematic issues of concern for the Community, together with scholars, jurists, practitioners and stakeholders from within the Member States.
2. In the past two years, there have been unconstitutional changes of government (UCG) in three Member States of ECOWAS, following the military coups in the Republic of Mali, the Republic of Guinea and Burkina Faso. Hence the selection of the theme, **“ECOWAS' Zero Tolerance for Unconstitutional Change of Government”** for the 2023 International Conference. This was to give the Court the opportunity to address this urgent and grave issue of concern within the ECOWAS Community legal landscape with a view to complementing and contributing to the measures taken by ECOWAS in finding a lasting solution to this phenomenon.
3. The conference focused on seven thematic areas and issues which were deliberated upon through presentations, panel discussions, plenary contributions and recommendations made for action.
4. The overall objective of the international conference was to contribute to the strengthening of constitutional order, democratic governance, rule of law, protection of human and peoples' rights and the realisation of the ECOWAS integration objectives. The specific objectives were to critically appraise the phenomenon of unconstitutional change of Government, the ECOWAS Response Policies and Mechanisms, the role of National Courts and the ECOWAS Court of Justice in sustaining democratic governance, rule of law and protection of human rights and the challenges to implementation of ECOWAS Court judgments and make recommendations for action.
5. The Conference was attended by over three hundred (300) participants, drawn from Member States of the Community, Government Officials, the Judiciary, National Bar Associations, National Human Rights Institutions (NHRIs), ECOWAS Community Court of Justice, other ECOWAS Institutions and Agencies, ECOWAS Representation Offices in Member States, Regional Tribunals, Diplomatic Missions, Civil Society Organisations (CSOs), Universities and Academia, International Development Partners and the Media.

6. The opening ceremony took place on 22 May 2023 and was graced by the H.E. the President of the Republic of the Gambia, President Adama Barrow who was represented by the Vice President of the Republic of the Gambia, H.E. Muhammed B.S. Jallow.
7. Other dignitaries who attended the opening ceremony were the Attorney General & Minister of Justice, Hon. Dawda Jallow, the Minister of Trade, Industry, Regional Integration and Employment, Hon. Boubacarr Ousmaila Joof, Senior Officials of the Government of the Republic of The Gambia, the President of the ECOWAS Commission, H. E. Dr. Omar Alieu Touray, represented by the ECOWAS Resident Representative to the Gambia, Ms. Miatta Lily French, Heads of ECOWAS Institutions and Agencies, Hon. Justices of the Community Court of Justice, Presidents of Regional Courts, Supreme Court Justices of Member States, Heads of ECOWAS National Offices in the Member States; the Special Resident Representative of the President of ECOWAS Commission to The Gambia, Members of the Diplomatic and Consular Corps, Presidents of Bar Associations, International Development Partners, Members of the Academia, distinguished Resource Persons and Participants, Staff of the Community Court of Justice and the Media.
8. The President of the ECOWAS Community Court of Justice, Hon. Justice Edward Amoako Asante, welcomed the distinguished guests and participants and thanked them for honouring the Court's invitation, the host Government for hosting the event and the warm hospitality extended to participants. He recalled the objectives of ECOWAS to promote cooperation and economic integration to among others, raise the living standards of citizens of the Community which can only be achieved in a democratic and stable political environment. He also highlighted the importance of the theme of the conferences and the issues to be discussed, as well as the negative impact of unconstitutional changes of government (UCG) on the gains made over time by ECOWAS in restoring democratic governance and culture, rule of law, protection of human rights and promotion of the regional integration agenda. He called on Member States to work collectively to prevent unconstitutional changes of government and punish perpetrators. He then urged the participants to take advantage of this important regional convergence to exchange ideas and proffer effective solutions for the benefit of the Community.
9. Professor Chidi Anselm Odinkalu delivered the keynote address. He provided a historical perspective to unconstitutional changes of government (UCG), its negative impact on development in Africa in the

post-independence era and the evolution of the development of the normative framework against UCG. He however identified four challenges to the effective implementation of the norms against UCG namely, lack of effective coordination between regional systems, that is, the UEMOA, ECOWAS and African Union, negative and controversial effect of sanctions imposed which sometimes undermine the protection of human rights, inconsistency in the implementation of sanctions for UCG around the continent and the uncertainties around the meaning of UCG, particularly within the context of popular uprisings. He concluded that the emergence of the norm against UCG in Africa demonstrated significant changes in regional inter-governmental and governance norms over time, however, there are shortcomings in the implementation of regional norms on good governance and prohibition of UCG as evident through popular uprisings and called for consistency in implementing the norm against UCG and regional supervision of elections.

10. The President of the Republic of The Gambia, H.E. Adama Barrow represented by the Vice President H.E. Muhammad B.S Jallow, delivered the Opening Statement, in his statement welcomed the participants on behalf of the Government and people of The Gambia. He observed that The Gambia has experienced a period of UCG. However, the return to democracy brought about renewed commitment for respect for rule of law in the country. He further noted that democracy is about respecting the constitution even when it is not convenient; respect for human rights and the opportunity for all to be heard. He also noted that ECOWAS' zero tolerance for UCG sends a message that democracy is a must. It should therefore not be a mere slogan but a means for real civic engagement with the citizens. He called for the strengthening of the legal framework and institutions to guarantee constitutional order and formally declared the international conference open.
11. Goodwill messages were also delivered by the President of the ECOWAS Commission, the Speaker of the ECOWAS Parliament, the ECOWAS Auditor General, the Director General of GIABA, the President of EBID, The Attorney General and Minister of Justice of The Gambia, The Minister of Trade of The Gambia and the Chief Justice of The Gambia.
12. The Conference was divided into seven sessions, in which presentations were made and discussions held. Thereafter, participants made some general and specific recommendations for action by the relevant stakeholders some of which are as follows:

## **GENERAL RECOMMENDATIONS**

1. Strict adherence to the tenets of the Protocol on Democracy and Good Governance to address the roots of political conflicts and ensure political stability, peace, and progress.
2. Strengthen the apolitical nature of the Armed Forces to guard against UCG.
3. Utilise early warning tools and existing Protocols to recalibrate the regional peace and security architecture.
4. Utilise proactive preventive diplomacy, mediation and results oriented conflict management strategies driven by consistency, neutrality and inclusivity to deal with management and resolution of conflict.
5. Work collectively and efficiently to improve the economic lives of the peoples of the sub-region.
6. Work together to ensure good governance, accountability and transparency which are necessary conditions for prevention of instability and UCG.
7. Invest in judiciaries and other dispute resolution bodies to enable speedy and fair dispensation of justice and ensure stable constitutional order and prevent conflicts and instability.
8. Combat corruption in public life as it undermines public confidence in state institutions and creates conditions for instability.
9. Address the root causes of tenure elongation, eliminate all pseudo-democratic laws and criminalise UCG at the national level with national courts having jurisdiction.
10. Include Academia and the Media as part of the larger community of CSOs with a view to contributing to the economic integration process of the Community.
11. Judicial Officers should avoid proximity to political power in order not to be compromised.
12. Ensure respect for term limits and put an end to the constitutional manipulations by incumbents to extend their mandates.

## **SPECIFIC RECOMMENDATIONS**

### **i. To Member States of the Community.**

13. Member States should:

1. Commit to the establishment of solid democratic ideals, the re-enforcement of Protocols agreed upon and the promotion of the Rule of Law as specified by the various International Instruments such as the Protocol on Non-Aggression (1978); the Universal Declaration of Human Rights; the African Charter on People's Rights and Democracy; and the Protocol on Good Governance (2001) which all Member States are signatories to.
2. Conduct regular periodic elections in accordance with the extant constitutional laws of Member States in a free and fair manner without Political Parties circumventing the electoral rules or guidelines.
3. Address the poor economic conditions of the Citizens, by fulfilling the (Social Contract) entered into during the electioneering period, and improve the high illiteracy level in the sub-region; maintain strict control of light arms proliferation; and general promotion of responsible democratic ethics.
4. Strengthen the means of settling electoral disputes at the national level by enacting laws and set up mechanisms for independent adjudication of electoral disputes.
5. Guarantee the independence of the judiciary as well as strengthen their capacity to render justice.
6. Comply with their human rights treaty obligations and set up domestic enforcement mechanisms of judgments, including those from the ECOWAS Court of Justice.
7. Enhance the capacity of National Human Rights Institutions (NHRIs).
8. Ensure the domestication of all ECOWAS laws.
9. Ensure an immediate and effective implementation of decisions given by the Court and compliance with their treaty obligations under the community law.

### **iii. To ECOWAS**

14. ECOWAS should:

1. Amend the Protocol on Democracy and Good Governance to reflect a broader concept of participation and integrate a human rights approach to good governance as well as popular control of the economy of member states.
2. Review the efficiency of sanctions and create an implementation guideline on the ECOWAS sanction framework.
3. Adopt a prompt and effective manner of addressing the root causes of crises and conflicts in West Africa linked to poor socio-economic conditions of Member States and the impoverished living conditions and standards of the citizens of the Community.
4. Sanction perpetrators of UCG and their collaborators while ensuring that rights of ordinary citizens are protected from the adverse impacts of political and economic sanctions.
5. Amend the Protocol on Democracy and Good Governance and instruments to prevent tenure extension by political leaders.
6. Modify the Protocol of the Court to allow for judicial intervention in election matters.
7. Commit to the implementation of recommendations from its election observers.
8. Strengthen its institutions, especially the Court, in its role of monitoring the community's democratic space.
9. Build a democratic culture and not add new norms to the already existing ones.
10. Disseminate the existing community laws by publishing a compendium of laws for the benefit of the community citizens.

11. The Political Authority should be involved in the enforcement mechanism, through the receipt of regular status on Member States' compliance with the decisions of the Court.

12. Create an enforcement Unit at the Commission to follow up with Member States on compliance with the Court's Decisions.

#### **iv. To the Community Court of Justice**

15. The ECOWAS Court of Justice should:

1. Hold regular judicial dialogue with national courts for the effective defence of human rights and the rule of law.
2. Ensure an appropriate sanctioning regime is adopted and enforced.
3. Take measures to enhance its relationship with national courts to develop the synergy between them.
4. Develop an action plan for the engagement of national authorities in respect of the enforcement of decisions of the court in collaboration with the Commission.

#### **v. To the African Union**

16. The African Union to:

1. coordinate its efforts with ECOWAS for a consistent implementation of regional norms governing elections and good governance.
2. Implement sanctions against unconstitutional changes of government.

#### **vi. To Civil Society Organisations**

17. Civil Society Organisations:

1. Human rights organisations including Bar Associations should disseminate the judgments of the Court and encourage decision-makers in Member States to execute them.
2. CSOs should be revived and revitalized to improve the democratic culture within the sub-region.



3. Members of academia, civil society and the media should act responsibly and avoid defending and justifying unconstitutional changes in government.
4. National Bar Associations, Law Faculties in Member States should mobilize resources for continuing legal education at the domestic level.

13. The closing ceremony of the 9th International Conference was held on 25<sup>th</sup> May 2023 in Banjul, The Gambia.

14. The Vice President delivered the vote of thanks.

15. The President of the ECOWAS Court delivered the Closing Statement.

16. The Conference was officially closed by ...

**Done on 25 May 2023, in Banjul, The Gambia**