

ECOWAS Community Court of Justice

JUNE 2013

The Economic Community of West African States (ECOWAS) Community Court of Justice has accepted the submission of individual complaints for human rights violations since 2005

Location: Abuja, Nigeria

Established: 1991

States: Nigeria, Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Senegal, Sierra Leone, and Togo

Establishment

The 1975 ECOWAS Treaty included a mandate for a Community Court of Justice (CCJ) to adjudicate disputes related to the interpretation and operation of the Treaty, as revised in 1993. The details for the operation of the Court were established by the 1991 Protocol on the Community Court of Justice signed by the ECOWAS High Contracting Parties. The Court became operational in December 2000. Seven judges sit on the Court, each serving a five-year term. No two judges can be nationals of the same state.

Jurisdiction

CCJ jurisdiction is set out in Article 9 of the 1991 Protocol which states that the court “shall ensure the observance of law and the principles of equity in the interpretation and application of the provisions of the Treaty.” The Court has ruled that this includes jurisdiction over human rights cases. This principle was codified by a 2005 ECOWAS Supplemental Protocol, which states that the CCJ has jurisdiction to hear human rights cases and expands the admissibility rules to include disputes between individuals and their own member states. As a result of these amendments, the CCJ is thus four courts in one: an administrative tribunal for ECOWAS, a human rights court, a court of arbitration, and an Inter-State dispute resolution tribunal. The Court can consider cases brought by:

- Individuals on application for relief for violation of their human rights
- Individuals and corporate bodies to determine whether their rights have been violated by an ECOWAS official
- Member states and the Executive Secretary, to bring an action against a state for failure to fulfill treaty obligations
- Member states, the Council of Ministers, and the Executive Secretary for determination of the legality of any action related to ECOWAS agreements

- ECOWAS staff who have exhausted remedies under ECOWAS Rules and Regulations; and
- Member states' national courts who may request to refer an issue related to the interpretation of ECOWAS agreements to the CCJ.

Article 10 of the Protocol further provides that the CCJ may express an advisory opinion on requests of the Treaty if the Authority, Council, or one or more member states requests it.

Admissibility

There is no need for exhaustion of domestic remedies in order to apply to the CCJ. However, for cases alleging a human rights violation in a member state, applications should not be anonymous and cannot be made while the same matter is pending before another international court.

Remedies

The ECOWAS instruments do not specify the remedies that the Court can provide. In past cases, remedies ordered by the Court included both awards of damages, as well as specific orders such as an order for the immediate release of an illegally detained journalist (*see Manneh v. Gambia*).

Enforcement

Decisions of the Court are final and binding under the 1991 Protocol. Member states and ECOWAS institutions must take all measures necessary to ensure execution of the Court's decision. Under Article 24 of the 2005 Protocol, the execution of a judgment of the Court must be in the form of a Writ of Execution, and the Chief Registrar is required to submit this Writ to the member state. The member state is required to execute the judgment according to its national courts. The member state must also determine the national authority to execute the Court's judgment and inform the Court of the relevant authority.

Cases

The Court's major human rights decisions have included a landmark 2008 ruling on slavery, in which the Court held the State of Niger responsible for failing to protect one of its citizens from enslavement by passively tolerating the practice (*see Hadijatou Mani Koroua v. Niger*), and a 2011 ruling ordering government of Nigeria to provide adequate financial support for public education in order to fulfill its obligation under the African Charter on Human and Peoples' Rights to provide free and compulsory basic education to every Nigerian child (*see SERAP v. Federal Republic of Nigeria and Universal Basic Education Commission*).

Court Documents

- [1995 Revised ECOWAS Treaty](#) | [1991 Protocol creating the CCJ](#) (PDF) | [2005 Supplementary Protocol](#) (PDF)

Related Links

- [ECOWAS Court Website](#) | [African International Courts and Tribunals \(AICT\)](#)

Justice Initiative Cases

- [Alade v. the Federal Republic of Nigeria](#) (2012) | [Hydara v. The Gambia](#)

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