



Conference of Constitutional Jurisdictions of Africa - CJCA

“Newsletter of CJCA”

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CJCA Activities

Angola: Appointment of a new President of the Constitutional Tribunal



The Head of State, João Lourenço, appointed on August 19, 2021 Ms. **Laurinda Jacinto Prazeres Monteiro Cardoso**, as President of the Constitutional Tribunal, replacing Mr. Manuel Aragão.

The appointment of Laurinda Cardoso follows the resignation of Mr. Manuel Aragão, in office since November 2017.

“Ms. Laurinda Jacinto Prazeres Monteiro Cardoso”

In addition to being a member of the Supreme Judicial Council of the Public Prosecutor's Office, she was Director of the Legal Office of the Ministry of Territorial Administration and provided technical and legal advice in legislative production processes.

She holds a law degree, legal-economics option, from the law faculty of Agostinho Neto University, and a postgraduate degree, in the legal-business specialty, from the same higher education institution. , in cooperation with the university. from Coimbra, Portugal.

Laurinda Cardoso holds a Second Post Graduate Diploma in Business Management from Catholic Lisbon Business & Economic School

Ms. Cardoso will also chair the CJCA until the next Congress scheduled for September 2022.

South Africa: Call for applications for the position of the next Chief Justice

President Cyril Ramaphosa is inviting public nominations for the position of the next Chief Justice of South Africa. To promote transparency and encourage public participation, President Ramaphosa has decided that South Africans should take part in the choice of the next Chief Justice.

The term of the current Chief Justice, Justice Mogoeng Mogoeng, comes to an end on 11 October 2021. Section 174(3) of the Constitution empowers the President to appoint the next Chief Justice after consulting the Judicial Service Commission and the leaders of political parties represented in the National Assembly.

In terms of the Constitution, the Chief Justice is “the head of the judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts”.



“Chief Justice Mogoeng with the President of the Republic”

President Ramaphosa therefore invites South Africans to nominate suitably qualified candidates for this critical position.

<http://www.thepresidency.gov.za/press-statements/president-ramaphosa-invites-public-participation-selection-chief-justice>

CJCA Activities

Bulgaria: Participation of the CJCA in the 19th meeting of the Joint Council of Constitutional Justice (CMJC)



The meeting was held online on September 23, 2021 from Sofia. The CJCA was represented by **Mr Moussa LARABA**, Permanent Secretary General who made a presentation on the future activities of the CJCA, on this occasion, he informed the members of the Council of the latest developments within the CJCA in particular the appointment of **Ms. Laurinda Jacinto Prazeres Monteiro Cardoso**, as President of the Constitutional Court and

President of the CJCA, replacing Mr. Manuel Aragão.

It should be noted that the CJCA is an ex officio member of the Mixed Council of Constitutional Justice (CMJC), in respect of regional spaces.

News of Courts and Councils

Mali: Day of exchange between the media and the Constitutional Court

A day of exchange between the media and the Constitutional Court was held this Tuesday, August 24, 2021 in Bamako under the theme: "The powers of the African Constitutional Courts in electoral matters".



The opening ceremony was chaired by the president of the Constitutional Court, **Mr Amadou Ousmane Touré**, who declared that: "The goal is to encourage the media in a dynamic of understanding the roles, missions and functioning of the Court. Constitutional, its powers and decisions in electoral matters...".

"President of the Constitutional Court, Mr Amadou Ousmane Touré"

Death of the President of the Supreme Court of Justice of Guinea Bissau

The president of the Supreme Court of Justice Bissau Guinean died of the Coronavirus. **Mamadou Saidou Baldé**, who was in critical condition, had been evacuated to Dakar. It was on Wednesday August 11 that he finally passed away.

A special plane had been chartered for the evacuation of Mamadou Saidou Baldé, who was hospitalized at the Simoes Mendes General Hospital. Unfortunately, he ended up being swept away by the Covid-19.

Judge Counselor **Mamadu Saido Baldé** served as President of the Supreme Court of Justice and President of the Supreme Judicial Council of Guinea-Bissau. The magistrate was elected on Tuesday, May 18, 2021, to head the judicial institution.



"The deceased, Mamadu Saido Baldé "

The Supreme Court of Justice of Guinea Bissau has been a founding member of the CICA since its creation in 2011.

Algeria: Election of professors of constitutional law members of the Constitutional Court

The election of professors of constitutional law, members of the future Constitutional Court, will take place on October 14, according to a decision of the President of the Constitutional Council, Kamel Feniche, published in the Official Journal. "The teacher electors are convened for the purposes of the election of professors of constitutional law, members of the Constitutional Court, on Thursday, October 14, 2021".



"President of the Constitutional Council, Kamel Feniche"

As a reminder, article 186 of the Constitution stipulates that "the Constitutional Court is composed of twelve (12) members: four (4) appointed by the President of the Republic including the President of the Court, one (1) elected by the Supreme Court from among its members, one (1) elected by the Council of State from among its members and six (6) elected by suffrage from among professors of constitutional law

News of Courts and Councils

Congo: The Constitutional Court has a new Secretary General

He was until then Deputy Secretary General of the Constitutional Court and succeeds its head, Antonin Mokoko, called to other functions. Appointed by presidential decree of February 26, 2021, Gilbert Itoua was sworn in on August 14 in Brazzaville, during a solemn audience chaired by the president of the institution, Auguste Iloki.



Note that the Constitutional Court of Congo has been a founding member of the CJCA since its creation in 2011.

"Mr Auguste Iloki, President of the Constitutional Court of Congo"

Seychelles: Appointment of 2 new judges to the Supreme Court

Two Seychellois judges appointed to the Supreme Court of Seychelles were sworn in before the Seychellois president and other members of the government, and judicial officials

Adeline and Esparon were chosen from 11 candidates - five Seychellois and six foreigners - by the Constitutional Appointing Authority (CAA).

The Seychelles Supreme Court joined the CJCA in April 2017.



Guinea: Possible lawsuit against the President of the Constitutional Court

In Guinea-Conakry, the coalition that led the mobilization against the third term of ousted President Alpha Condé in 2019 and 2020, the National Front for the Defense of the Constitution (FNDC), has published a list of 62 people whom it calls for exclusion from public affairs and transition.

On this list are many members of the former government, including the former Prime Minister Ibrahima Kassory Fofana and the former Minister of Defense Mohamed Diané, police and gendarmerie commanders, judges, including the president of the Constitutional Court, prosecutors, governors and prefects.

This coalition of political movements and civil society considered that the people whose names appear on their list, "have betrayed their oath" and this allowed Condé to obtain a controversial third term in October 2020.



The people on the list are considered to be "alleged authors or co-authors of the constitutional coup, people to be removed from any process of return to constitutional order, while waiting for justice to rule" on their fate.

They are liable to prosecution "before a competent jurisdiction of the African Union".

Constitutional developments

Kenya: Court upholds illegality of President Uhuru Kenyatta's constitutional



The Supreme Court of Kenya confirmed on August 5 the illegality of the constitutional review process launched in November 2019 by President Uhuru Kenyatta and a source of growing political controversy in the run-up to the presidential election in August 2022.

This reform, called the "Building Bridge Initiative" (BBI), aims to modify the constitution of 2010 - which established a presidential system - to create in particular a post of Prime

Minister, two of Deputy Prime Minister and one of Head of the opposition and increase the number of seats in Parliament.

"The president does not have the power, under the Constitution, to initiate changes to the Constitution. A constitutional amendment can only be initiated by the Parliament (...) or by popular initiative", declared in particular the president of the court, at the conclusion of more than ten hours of reading of the judgment.

The head of state may be subject to civil proceedings for unlawfully initiating this process, the seven judges also estimated.

On May 11, Parliament approved this project, which was then to be submitted to a referendum.

But two days later, a Nairobi court ruled the process illegal, stating in particular that such a constitutional review could not be initiated by the president.

Uhuru Kenyatta denounced an "attempt to block the will of the people". The government appealed.

For many observers, this judgment also establishes a certain independence of the judiciary vis-à-vis the executive.

In September 2017, the Supreme Court invalidated the results of the August 8 presidential election, in which the outgoing Uhuru Kenyatta came out on top.

Angola: Constitutional Tribunal validates constitutional revision

The Constitutional Tribunal validated the proposal for constitutional revision, sent by the President of the Republic, for a priori control.

The Tribunal understands that the proposal is, in general, in conformity with the limits and the principles established by the Constitution, thus giving the green light to the law of constitutional revision.

In the judgment, published on August 10, the Constitutional Tribunal, however, requested the revision of the rule which obliges the higher courts to send annual reports to the National Assembly.

All the other aspects considered, within the framework of the constitutional revision process, have been kept intact.



Jurisprudence of the Courts and Councils

The Cameroonian Constitutional Council has ruled inadmissible the application lodged by one opponent for the replacement of 18 CEOs and their deputies.



The 18 dg and their assistants judged outlawed by the president of the Cameroonian Democratic Front (FDC), will remain in office. The Constitutional Council has in fact rejected the request introduced by the president of the FDC to demand their replacement at the head of state entities. According to the opponent, the nine-year terms of these bosses at the head of state-owned enterprises have largely expired.

The request was deemed "inadmissible" by all the members of the Constitutional Council for lack of quality.

According to the Cameroonian Constitution, the constitutional council can be referred to by the President of the Republic, the President of the National Assembly, the Senate, a third of the deputies or a third of the senators. It can also be referred to the presidents of the regional executives when the interests of their regions are at stake.

Uganda: Constitutional Court repeals anti-pornography law

In Uganda, the Constitutional Court repealed on August 17, 2021, the anti-pornography law in force since 2014, some articles such as the ban on wearing the miniskirt were denounced by civil society organizations.

According to the ruling, the law is declared "incompatible or contrary to the constitution".

The law of February 2014 qualified as pornographic, and penalized, behaviors and activities such as wearing short skirts or song lyrics deemed too daring.

Women's rights groups have campaigned in recent years for the repeal of this text, dubbed the "anti-miniskirt law", denouncing the harassment carried out against women wearing outfits considered indecent.



In 2014, singer Jemimah Kansiime, spent five weeks in prison after the release of a suggestive clip where she appeared in a thong and wide cleavage, soaping her buttocks. According to the anti-pornography law, she could face ten years in prison.

Jurisprudence of the Courts and Councils

Zimbabwe: Constitutional Court ruled on reference to citizens' right to shelter

The Constitutional Court ruled that the reference to the citizens' right to shelter in the country's constitution was "of an essentially exhortative and incentive nature", operating simply as a reminder to the government in formulating its policy.



Given that housing is a major issue in Zimbabwe, this judgment will have an impact on how human rights lawyers handle cases arising from these issues in the future.

According to the Court, the reference to adequate housing fell under an article which sets out national objectives to guide the state.

These objectives were important for the interpretation of the Constitution and other laws, "but they are not justiciable".

The judges said these provisions were "essentially exhortative in nature" rather than "strictly enforceable and enforceable in themselves".

"This is essentially a question of interpretation", and the court recalled that the Constitution "does not mean what one might wish it to mean".

The judges of the Supreme Court added that the court did not create rights, but "it simply interprets the various provisions of the Constitution to verify the existence, the nature and the extent of these rights".



"View of Algiers, the gardens of El Hamma"

Scientifics activities

Mozambique: Organization of the 3rd International Symposium of the CJCA

The CJCA in collaboration with the Constitutional Council of Mozambique are organizing the 3rd International Symposium in Maputo from October 14 to 16, 2021, on the theme "**Electoral justice: transparency, inclusion and integrity of the process**".



The Symposium will be held primarily online; however, a limited number of delegates will attend face-to-face.

As a reminder, the CJCA holds a Symposium between two Congresses. The first took place in Cotonou in 2013 on the theme: "**The constitutional judge and political power**". The second took place, in Algiers in 2017, on the theme of: "**Individuals' access to constitutional justice**".

Algeria: Release of the book "The mediator in constitutional law and comparative political institutions"

From its author, Professor and **Dr Said Bouchair**, who devoted the first part of this work to talking about the general theory of the State.

This book of 5 volumes, studies, analyzes and discusses, in theory and in practice, the concept of State, its pillars and its characteristics in an extensive and global way, its forms and functions, the concept of Constitution, its importance and its place in the state, and the control of the constitutionality of laws in many political systems, in addition to the concept of central state institutions, the development of democracy, modes of representation, elections, parties and groups pressure.



As a reminder, **Professor Said Bouchair** was President of the Constitutional Council of Algeria from 1995 to 2002.



"Photo of the interior of the CJCA headquarters in Algiers"

Future activities

Algeria: Celebration of the 10th anniversary of the creation of the CJCA

The Conference of African Constitutional Jurisdictions and the Constitutional Council of Algeria will celebrate the 10th anniversary marking the creation of the CJCA in 2011. This celebration will be held in Algiers on December 1 and 2, 2021 on the theme: **"The CJCA, ten years of" existence: results and prospects"**



The commemoration of this anniversary is a good opportunity for the Conference to take stock of its actions and to draw up a strategic development plan for the future.

Angola: Holding of the 14th session of the Executive Bureau of the CJCA

The 14th session of the Executive Board of the CJCA will be held in Luanda, Angola in January 2022 under the chairmanship of, **Ms. Laurinda Jacinto Prazeres Monteiro Cardoso**, Venerable Judge-President of the Constitutional Tribunal of Angola, current President of the CJCA.

The members of the Bureau will have to examine the report of activities for 2021, the program of activities for 2022 and will proceed to the closure of the fiscal year of 2021 and to the adoption of the provisional budget for 2022.



They will also discuss the latest constitutional developments as well as the preparation of the next meetings of the CJCA.

The Constitutional Court of Angola has assumed the presidency of the CJCA since June 2019.



NB /: The "CJCA Newsletter" is your publication, do not hesitate to send us your remarks and your proposals as well as any information relating to the activity of your Court and that you would like to share with the other.

The E-Mail address is: contact@cjca-conf.org

