



ORDEM DOS ADVOGADOS DA GUINÉ-BISSAU

HUMAN RIGHTS IN GUINEA-BISSAU

GENEVA, 18 FEBRUARY 2025

ÍNDICE

I- The independence of the judiciary

II- Access to justice

CONTEXT

During the 3rd cycle of the universal periodic review, 10 recommendations were made regarding the independence of the judiciary and access to justice, however, none of these recommendations were implemented, in fact, there were clear signs of setbacks, with records of events that restrict the freedom of lawyers and magistrates, condition the freedom of the judiciary and access to justice.

INDEPENDENCE OF THE JUDICIARY

❖ The independence of the judiciary is a fundamental principle of the rule of law, enshrined in Article 120(4) of the Constitution of the Republic of Guinea-Bissau.

Political and military power has placed obstacles in the practical applicability of these principles, through well-defined actions, such as:

- Illegal appointment of a new vice-president of the Supreme Court of Justice.
- Suspensions, retirements, kidnappings and arbitrary dismissals of 20 judges.
- Fraudulent electoral process in the supreme court in December 2021.
- Political instrumentalization of the Superior Council of the Judiciary and its functioning without quorum.
- Assault on the seat of the judiciary, followed by the kidnapping of the then president of the Supreme Court of Justice and his consequent resignation from office under duress.
- In 2021, the president of the republic dispossessed the headquarters of the Bar Association.

RECOMMENDATIONS

- Strengthen in the next legislature, the legislative measures that reinforce the autonomy and independence of the judiciary and that criminalize with heavy penalties actions that tend to condition the independence of the judiciary, measures that include the aggravation of the penalties provided for the crimes contained in Articles 227 and 228 of Law No. 4/1993 (Penal Code) and Article 12 of Law No. 14/1997 (Law on Political Positions).
- Approve in the next legislature, legislative and administrative measures that strengthen the protection of operators in the judicial sector from acts of violence and coercion that they may be subjected to.
- Urge the State of Guinea-Bissau to immediately return the building of the headquarters of the Bar Association, in compliance with the decision of the Regional Court of Bissau, in the context of case No. 173/2021.
- Approve within 6 months the law on advocacy and the specific acts reserved for lawyers, to strengthen the status and independence of lawyers and the prerogatives of the lawyer and the citizen.

ACCESS TO JUSTICE

- Justice is extremely expensive, but in addition to the economic obstacle, the country is still faced with issues of lack of implementation of courts and other judicial structures throughout the national territory.
- The creation of the Office of Legal Information and Consultation (GICJU) through Law No. 11/2010, from whose access to justice centres they have provided legal aid in its different modalities, is to be recognized and congratulated;
- The Constitution determines that all citizens are equal before the law and every citizen has the right to appeal to the courts, and justice cannot be denied due to insufficient economic means, but the implementation of the principle of equality before the law and equal access to the law is still very far from being implemented in practice.

RECOMMENDATIONS

- Fight corruption in the judiciary by institutionalising, within 12 months, an independent judicial inspectorate with administrative and financial autonomy;
- Convert in a period of 9 months, the Office of Legal Information and Consultation (GICJU), established by Law No. 11/2011, into the National Institute of Legal Assistance and Public Defense (INDEP), in compliance with the recommendations of the seminar on access to law and justice, held in September 2017, with the support of the UNDP;
- Revise Article 68(p) of the Constitution, in order to assign a mandate to the Attorney General of the Republic and to incorporate into the Constitution a similar rule for the President of the Court of Auditors;
- Allocate more funds to the justice sector in the next General State Budget, with its own budget, which makes it less dependent on the Ministry of Finance;
- Establish a programme to reform the judiciary over the next 18 months, with a view to making it immune to political and economic influences and allowing justice to be accessible to all.

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text 'THANK YOU' is centered in the middle of the slide.

THANK YOU