

Corruption Casework Policy Roundtable

6-7 July 2010

National Judicial Institute

Communiqué

On 6 and 7 July 2010, on the invitation of the National Judicial Institute and the United Nations Office on Drugs and Crime, a group of judges of the *Federal High Court*, the *High Court of the Federal Capital Territory* and the *Lagos State High Court*, as well as senior prosecutors and investigators of the *Code of Conduct Bureau*, the *Economic and Financial Crimes Commission* and the *Independent Corrupt Practices and Other Related Offences Commission* gathered at the National Judicial Institute to work jointly towards identifying and resolving issues currently hampering the overall ability of the justice system to effectively and efficiently handle cases of corruption, economic and financial crimes.

Based on the proposals prepared by the group, **we, the Heads of Courts/Chief Executives/ Representatives** of the above mentioned courts and agencies;

Express our concern about the continuing difficulties encountered by stakeholders to ensure the timely and effective disposal of cases of alleged corruption, economic and financial crimes, as well as the diminishing public confidence in the ability and commitment of the Nigerian justice system, and the Nigerian Government as a whole, to combat corruption;

Adopt, therefore, the following recommendations with a view to enhancing the capacity of the justice system and its individual institutions to handle cases of corruption, economic and financial crimes.

For the Honorable Attorney General of the Federation and the Minister of Justice to:

1. As an immediate action, review and re-introduce the Non-Conviction-Based-Asset-Forfeiture Bill;
2. Develop a witness protection bill in line with the requirements of the United Nations Convention against Corruption;
3. Introduce a whistleblower protection bill, as an executive bill, drawing on already existing legislative proposals and international good practices;
4. Review and re-introduce the bill for the amendment of the Evidence Act, in order to ensure the admissibility of electronic and digital evidence;
5. Limit the right to interlocutory appeals, in particular as relates to cases handled by the EFCC and the ICPC, including the consideration of a constitutional amendment;



6. Introduce other amendments to the Criminal and Penal Procedure Acts, as appropriate, aimed to facilitate the handling of cases of corruption, economic and financial crimes (including the regulation of plea bargaining) drawing from examples already adopted at State levels, in particular the administration of Criminal Justice Law of Lagos State;
7. Introduce amendments to the EFCC and ICPC Acts, allowing for cases of corruption, economic, and financial crimes, in particular as they relate to politically exposed persons (PEPs), to be tried in jurisdictions, other than the one of the locus of the crime;

For the CCB, EFCC and ICPC with a view to enhancing effective investigations and prosecutions to:

8. Review and, as appropriate, amend the human resource recruitment and management system for prosecutors with a view to attracting more competent and committed lawyers to join the legal departments of the anti-corruption enforcement agencies;
9. Improve and standardize training, coaching and mentoring, in particular for junior prosecutors, including in the areas of (1) management of individual caseloads, (2) proper examination of the elements of crime, (3) drafting of charges, (4) prosecutorial tactics and strategy, (5) preparation and management of witnesses, etc.;
10. Improve the interaction with the media with a view to managing the premature raising of public expectations, unwarranted pressure by the media (leading occasionally to the filing of poorly prepared cases with little or no chance of obtaining convictions), as well as potential negative effects on public confidence in the justice system (as such damages will ultimately affect all institutions);
11. Become more selective in relying on the assistance of outside lawyers, and only engage the services of those who possess both the competence and commitment;
12. Conduct in all cases pre-trial briefings to prepare witnesses, scrutinize evidence and anticipate potential obstacles to the successful prosecution of cases and identify tactical responses to such obstacles;
13. Establish a system for case selection and early evaluation, involving senior investigators and prosecutors alike, in order to focus limited human and financial resources on the most promising cases and to increase conviction rates;
14. Ensure the early involvement of prosecutors in the planning and guidance of investigations, with a view to enhancing the effective use of investigative resources and efforts on only those elements relevant to the later prosecutions of the case;
15. Create a permanent platform of interaction, coordination and cooperation among the anti-corruption law enforcement agencies in order to avoid duplication of investigations and identify cases of possible joint investigations and prosecutions;
16. Provide regular, practice oriented training to investigators, including basic investigation skills, such as (1) interviewing, (2) search and seizure, (3) corroborating evidence, (4) international cooperation, (5) recovery of digital evidence, etc.,



17. Provide more resources and operational equipment in support of investigations and prosecutions;
18. Employ more seasoned investigators and prosecutors to match the caseload; and
19. Ensure the handing over of such cases to the police and other law enforcement agencies, which because of their nature, the damage caused and/or values involved are less severe from the public interest perspective.

For the Heads of Courts and judges designated to hear cases of the EFCC and ICPC¹:

20. While the power of Heads of Courts to designate judges to handle cases of the EFCC and ICPC is not in question, it is recommended that the Heads of Courts be mindful of the demands of such specialized cases in the selection process;
21. Develop and standardize needs of judges designated to hear EFCC and ICPC cases, including equipment, security and training;
22. Recognizing the immense public expectations to see decisive action in the handling of corruption cases, designated judges should take a more proactive and managerial approach when hearing EFCC and ICPC cases. This entails particular, enhanced scrutiny in the granting of bail and adjournments as well as the immediate disposal of interlocutory applications;
23. Recruit/assign and train court spokespersons to translate judicial decisions into easily understandable language and handle media relations, in particular in high-profile public interest cases;
24. For the Chief Judge of the Federal High Court to limit the transfer of designated judges, where possible, to plan and communicate such transfers well ahead of time, and where necessary to make budgetary provisions that designated judges affected by transfers can conclude the EFCC and ICPC cases commenced by them.
25. For the Heads of State and FCT Courts to designate magistrates to decide speedily on applications brought by EFCC and ICPC for search, remand and arrest warrants, and bankers' orders etc.,

Welcome the initiative launched by the **Honourable Attorney General of the Federation and Minister of Justice** for the development of a holistic national strategy to combat corruption.

Acknowledge the statement made by the Representative of the **President of the Court of Appeal**, emphasizing the need for political will and courage by all stakeholders, in particular, those in decision-making positions, to ensure the effective implementation of these recommendations;

¹ While the proposal for the establishment of specialized courts to hear the cases of EFCC and ICPC was discussed, participants cautioned that unless such courts would be operating outside the established rules of criminal procedure, the Evidence Act and the recommendations contained in this Communiqué would be taken into account in the establishment of such specialized courts, they would be most likely suffer from many of the same shortcomings as the current system of designated judges.



Acknowledge also the statement made by the Representative of the *Chief Judge of the Federal High Court*, calling on the prosecutors of EFCC and ICPC to improve their prosecutorial tactics, including through reducing the number of counts, limiting the amendment of charges and engaging former DPPs of the Ministry of Justice to assist in the prosecution of cases;

Welcome the statement of the Representative of the *Executive Chairman of the EFCC* indicating the commitment of the EFCC to implement in particular those recommendations directly addressed to the EFCC;

Welcome also the statement of the Representative of the *Chairman of the ICPC* highlighting his support especially to the introduction of a whistleblower bill and to create a permanent platform of interaction, coordination and cooperation among the anti-corruption law enforcement agencies;

Appreciate the call by the *Chairman of the Code of Conduct Bureau* to ensure proper implementation of the recommendations, in particular as concern the establishment of a permanent mechanism to facilitate the coordination and cooperation among anti-corruption law enforcement bodies;

Express our appreciation to the *National Judicial Institute* for hosting the meeting with the support of the *European Union* and the *United Nations Office on Drugs and Crime*;

Call upon the organizers of this roundtable to disseminate this communiqué to the National Judicial Council, the Board of Governors of the NJI, the Heads of Courts, and the members of the Interagency Task Team for the development of a national strategy to combat corruption, and to ensure that future meetings also involve the Police, the Nigerian Prison Service, the Office of the Attorney General, the National Drug Law Enforcement Agency (NDLEA) and the National Agency for the Prohibition of the Trafficking in Persons (NAPTIP);

Call upon, in particular, the *National Judicial Institute* to ensure proper follow-up to the communiqué, in particular in terms of facilitating the review of implementation of the herein contained recommendations;

Abuja, 7 July 2010

