

Administering commercial justice

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The aim of the commercial courts is to resolve commercial disputes and to boost traders' and investors' confidence in the country

In principle, commercial justice is a service delivered by a specialised court and/or other specialised quasi tribunals to the business community. The main purpose is to preserve social order and facilitate economic development through the timely resolution of commercial disputes by interpreting and applying commercial laws.

In Tanzania, commercial justice is dispensed by the Commercial Division of the High Court (commonly known as the Commercial Court). The Commercial Court is one of the three semi-autonomous divisions of the High Court of Tanzania, the other two being the Labour and the Land Divisions, all of which fall within the country's judicial system hierarchy, with the Court of Appeal at its apex. The Labour and the Land Divisions of the High Court enjoy exclusive jurisdiction in labour and land matters respectively. The Commercial Court does not have exclusive jurisdiction in commercial cases. Original jurisdiction in commercial cases is shared with the High Court of Tanzania's general division and District and Resident Magistrates' Courts, subject to a specified pecuniary limitation for the subordinate courts. The Commercial Division also has appellate jurisdiction over commercial cases originating from the District and Resident Magistrates' Courts.

The 'Commercial Court' of Tanzania became operational on the 15th of September 1999, following a decade of legal reforms. It depends wholly on a government budget to run its various activities, including its core function, which is the administration of commercial justice.

The Commercial Court having being conceived during the reform of the judicial system in Tanzania, with the overall objective of creating an enabling conducive environment for attracting both foreign direct investment (FDI) and local investors, be it small or medium, it was envisaged to be a fully specialised court with specialised sitting judges and advocates in commercial law matters and with its own rules of procedures.

The aim was to enable the Commercial Court to resolve commercial disputes, to boost traders' and investors' confidence in the country. The Commercial Court has largely managed to achieve this. Despite some minor operational shortcomings the Commercial Court has managed to resolve commercial disputes effectively and promptly, which has given space

and time to litigants to engage in other productive economic activities. In its ten years of existence, with government support, the Commercial Division has steadfastly and successfully fulfilled the main objective of resolving commercial disputes expeditiously.

The good performance of the 'Commercial Court' would not have been so successful had it not been for the financial support it has been receiving from the government annual budget to the Judiciary of Tanzania, along with some financial aid from multilateral and bilateral development partners.

A large part of the Commercial Court's success is also due to it having embraced the use of Information and Communication Technology (ICT) from its very inception, and which has served as a model not only for other courts in the country but to others in the region that have learned from its best practices.

Proceedings in the Commercial Court are now recorded digitally, thanks to generous financial support from the government and the Investment Climate Facility for Africa (ICF). The ICF's funding greatly assisted the Commercial Court in upgrading its audio recording system, as well as the training of judges and support staff in computer skills. The use of digital recording has greatly contributed to shortening the time spent in disposing cases, which has been reduced from the average 14 months it took previously to about ten months. It has also freed judges from the excruciating exercise of taking down evidence manually. The aim of the Commercial Court is to reduce even further the disposal time of commercial cases.

The Commercial Court in particular, and the Judiciary of Tanzania in general, has come to realise that optimising and promoting the use of information communications technologies in the delivery of court services, would make it possible to realise the policy vision of the legal sector: 'timely justice for all'. The Commercial Court is currently manned by two sitting judges and has two sub-registries in Arusha and in Mwanza. The Commercial Court within the spirit of extending access to justice is in the process of establishing another two sub-registries, one in Mbeya through multilateral funding, and another in Dodoma through government funding. All these are efforts by the current Government of Tanzania have gone toward ensuring that timely access to commercial justice is made possible to all. **F**