

**Speech by H.E Kristian Schmidt, EU Head of Delegation and Chairperson of the
Justice, Law and Order Development Partners' Group,
On the occasion of the 21st Annual Review of the Justice Law and Order Sector -
27 October 2016**

My Lord, the Honourable Chief Justice,
My Lord, the Honourable Deputy Chief Justice,
Honourable Minister of Justice and Constitutional Affairs,
Honourable Attorney General,
Honourable Minister of Internal Affairs,
Cabinet and State Ministers in your respective capacities,
Honourable Justices and Judges of the Courts of Judicature,
Your Excellencies, Heads of Diplomatic Missions,
Members of Parliament Present,
Chairpersons and Members of Constitutional Commissions,
Heads and Representatives of the Justice Sector Ministries, Departments and
Agencies,
Representatives of Civil Society and Non-State Actors,
Ladies and Gentlemen,

To deliver these remarks on behalf of the Development Partners on this occasion of the 21st Annual Review of the Justice Law and Order Sector gives me great pleasure and honour.

This year's theme – "**A Pro-People Justice System: Building Public Trust**" could not have been more topical. We all know that a number of challenges continue to test public trust in the justice system.

The basic tenet of this public trust in the justice system rests on the confidence that the system is independent. That the letter of the law will apply to all people in equal measure irrespective of their income status, irrespective of their educational level, and irrespective of their public status or the office they hold.

The Annual Performance Report for the period under review highlights a number of different indicators reflecting improvements in judicial independence. This should be applauded because so delicate and so critical is the independence of the justice system that it must be defended by all who cherish the rule of law. It is for this reason that Development Partners welcomed assurances [from the Honourable Minister of Justice] that the sanctity of courts and the safety of judicial officers will be protected. We call on all people, including members of JLOS institutions, to submit to the due processes of the law. I would like to take this opportunity to reiterate an observation pertaining to the policy framework for independence of the judiciary. We, as do members of JLOS we have interacted with, firmly believe that enactment of the Administration of Justice Bill would greatly strengthen judicial independence. Honourable Minister for Justice, we welcomed your intimation that the Administration of Justice Bill would be sent to Parliament before the end of October 2016.

As it is with other sectors of the country, various reports acknowledge that the sector faces serious challenges of corruption. If we did not highlight this challenge, we would not qualify as your true friends. While significant increases have been registered in public confidence in JLOS institutions from 26% (in 2012) to 48% (currently), in level of public satisfaction from 59% to 72% and in the disposal of cases and internal disciplinary mechanisms to fight corruption, corruption still remains a problem at all levels of the justice chain – at investigations, when applying for "free" police bond or court bail, at sanctioning of files, and with files disappearing or not being cause listed without inducements.

These are realities that an ordinary citizen faces. It is therefore unsurprising that the study on "Justice Needs in Uganda (2016)" found that many people, especially the poor, firmly believe that Ugandan Courts are biased against the poor and marginalised. This finding further reinforces our call for the adoption of the Legal Aid Policy and Law to ensure that adequate representation before the court will not depend on the defendant's financial situation. Furthermore, we would like to renew our call

that the vice of corruption needs to be decisively tackled through a multi-pronged approach, including rigorous implementation of the sector's anti-corruption strategies, effective and timely sanctions, and recoveries of all proceeds of corruption.

The situation with case back log, pre-trial detention (55%) and prison congestion (occupancy at 293%) not only offends the cardinal principle that "justice delayed is justice denied", but also raises serious human rights concerns. It is common during adjournments to hear: "investigations are still ongoing" while the suspect is incarcerated on remand. Land disputes take on average 45 months to dispose, severely affecting livelihoods during this time and often resulting in violent land conflicts due to uncertainty and frustration with the delays.

In this context, the Development Partners would like to express strong our concerns on the continued use of High Court Criminal Sessions for handling criminal cases. The justification for the use of the session system is difficult to see or understand, especially in circuits with resident judges. It would be even more difficult, perhaps impossible for a suspect who has spent years on remand, in an overcrowded prison, to understand the criminal session system.

My Lords the Chief Justice and Principal Judge, in light of the challenges that the system presents, we would like to call on you to urgently review the use of High Court Criminal Sessions. Furthermore, we would like to make a call to stakeholders in the sector as a whole to examine the "investigations after arrest strategy" and discourage a retrogressive review of the 48 hours rule, which - like restricting the right to apply for bail - would only make a bad situation worse.

It is common knowledge that Uganda has a very young population, one of the youngest in the world. We would like to emphasise the prioritisation of the justice system in favour of children and recommend that cases of child victims or children in conflict with the law are handled with priority, considering both the specialised approach needed for children and to ensure their best interests are met. Diversion is certainly the most sustainable solution, not building more and more remand homes.

Notwithstanding the aforementioned challenges, Development Partners would like to

greatly commend the sector for a number of initiatives such as the introduction of the small claims procedure and plea bargaining, as well as the roll out of Alternative Dispute Resolution (ADR), which have already registered tremendous success or are on the way to do so. We are confident that the National Court Case Census, a report of which was launched last Monday, provides a benchmark towards which targeted measures can be taken, which will address and eliminate the serious backlog of cases in the foreseeable future.

Despite the expiry of their tenure; despite the numerous criticisms levied against them; and despite the operational challenges they face, the Local Council (L.C) Courts 1 and 2 continue to operate. Research upon research has consistently pointed that not only are the L.C Courts one of the most valuable sources of information for Ugandan citizens; they are also the most frequently used mechanism for dispute resolution. As such, they also enjoy comparatively high levels of user satisfaction. It is for these reasons that we welcome the assurances from the relevant ministries that the elections of L.C Courts at levels I and II will be conducted any time soon. These elections will allow these critical entry points for justice service delivery to fully exercise their mandate.

Protection and promotion of human rights is a core mandate of JLOS institutions. Over the years, however, Development Partners have raised concerns that some institutions [e.g. Police and Prisons Services] mandated to promote and protect human rights are at times the very ones identified in various human rights reports, including those of the Uganda Human Rights Commission, as violating citizens' rights. While the conduct of some law enforcement officers during and after elections raised serious concerns, this year we witnessed for the first time a decline in human rights cases reported against Uganda Police Force who had often topped the charts of human rights violations.

While the reduction in the numbers of complaints against JLOS institutions is worthy of recognition, we cannot lose sight of the fact that many compensation awards to victims of violations remain unsettled. The growing case backlog in the Uganda Human Rights Commission (UHRC), and the time it takes to dispose off human rights

complaints (30 months on average), should urgently be addressed by the recently reconstituted Commission. Also, a deeper analysis for the reduction in the number of complaints may be of merit to make sure that growing awareness of available avenues for complaints is not overshadowed by growing frustration about lengthy procedures or other obstacles.

In the coming weeks, Uganda is scheduled to be reviewed by the Human Rights Council. The review will provide an excellent opportunity for the country and the sector to take stock of the extent of the success of its initiatives to promote and protect human rights, and of the status of implementation of voluntary commitments and other recommendations, such as those relating to the review of the death penalty.

Yet despite all the challenges, there has also been commendable progress on many issues: The success and achievements registered since the 1st Strategic Investment Plan (SIP I) are a testament to all those JLOS actors who work hard to overcome challenges and are committed to address those still remaining, We are confident that those challenges are not insurmountable.

Only a few years ago, the average length of stay on remand was 30 months. This is now down to 10.4 months, still relatively too long a time to spend on remand, but a remarkable step in the right direction. There are other examples of impressive lead times in the sector – 10 days on average to issue passports, 16 working hours to register a company and 03 minutes to clear at the border, to name but a few.

In terms of physical presence, we would like to salute the sector for now being present [though not fully functionally in some instances] in 82% of the country's districts. Even better, the police have set this bar even higher –100% of sub-counties now have operational police posts - thereby contributing to a reduction in crime rate and to increased conviction rates despite worsening resource constraints for the investigations department.

I have already talked at length about the importance of respect for judicial decisions and submission to judicial authority as the hallmark of democracy and rule of law. The Supreme Court delivered its verdict on the last Presidential Election Petition. I am

informed that this was the first time in Uganda's jurisprudence that the court made specific orders for electoral reforms.

We have received with great expectations the assurances that recommendations will be considered in a timely manner and through an inclusive process.

Electoral reforms - which also relate to some outputs of JLOS' own Strategic Investment Plan - are not an issue Development Partners unjustifiably push for. They are important for sustainable growth and stability of this country. It is important for the future of this beautiful country and its young citizens.

My Lord, the Chief Justice, Honourable Minister of Justice, my colleagues will discuss more during the presentation of Development Partners' technical assessment of the performance of the sector.

As I conclude, I would like to underline the importance of allocating adequate resources to the sector. The annual report notes that the investigations department of police faces severe budgetary constraints. The Judiciary and Uganda Human Rights Commission - as do other sector institutions - face similar challenges. We, the Development Partners, remain firm in our belief in the sector and in our unwavering commitment to stand with or walk by your side in your efforts to achieve a pro-people and trusted justice system.

Thank you for your attention!