


AFRICAN UNION		UNION AFRICAINE
<b>الاتحاد الأفريقي</b> <b>African Commission on Human &amp; Peoples' Rights</b>		<b>UNIÃO AFRICANA</b> <b>Commission Africaine des Droits de l'Homme &amp; des Peuples</b>
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## 44<sup>TH</sup> ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

**Submitted in Accordance with**  
**Article 54 of the African Charter on Human and Peoples' Rights**

## **PART I: SUMMARY**

1. This 44<sup>th</sup> Activity Report of the African Commission on Human and Peoples' Rights ('ACHPR' or 'Commission'), which is presented to the Heads of State and Government of the African Union (AU) in accordance with Article 54 of the African Charter on Human and Peoples' Rights ('the African Charter' or 'Charter'), covers the period from **November 15, 2017 to May 9, 2018**. It highlights, among others: the statutory and other institutional meetings of the Commission; the status of State reporting; Resolutions adopted by the Commission; the human rights complaints before the Commission; the various interventions of the Commission on human rights issues including Urgent Appeal letters, Press Releases and Letters of Appreciation; the human rights situation on the continent; financial, staffing and operational matters; implementation of the Recommendations of the Commission; and Recommendations to the Assembly of Heads of State and Government.

## **PART II: BACKGROUND**

2. The Commission was established in terms of Article 30 of the African Charter, which was adopted by the Assembly of Heads of State and Government of the Organization of African Unity (OAU) in 1986. The African Charter has been ratified by all Member States of the AU, except Morocco. The Commission became operational in 1987 and has its headquarters in Banjul, The Gambia.
3. The Commission is composed of eleven (11) Members elected by AU Heads of State and Government, who serve in their individual capacities on a part-time basis. Its mandate, as set out in Article 45 of the African Charter, is to:
  - i. Promote Human and Peoples' Rights;
  - ii. Ensure the protection of human and peoples' rights under conditions laid down by the Charter;
  - iii. Interpret the provisions of the Charter at the request of a State party, an institution of the OAU or an African organisation recognized by the OAU; and
  - iv. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.
4. The Commission is also specifically charged under the Charter with receiving and examining Communications (Complaints) submitted to it, and receiving and examining periodic reports from State Parties on the legislative or other measures taken to give effect to the rights and freedoms recognized and guaranteed by the Charter.
5. Under Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), the Commission is also mandated to monitor measures taken by State Parties in relation to the status and rights of women in their respective countries.

Similarly, Article 14 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) requires State Parties to report the legislative and other measures which they have taken to ensure the rights of internally displaced persons.

### **PART III: BODY**

#### **I. AU POLICY ORGANS MEETINGS, STATUTORY AND OTHER INSTITUTIONAL MEETINGS DURING REPORTING PERIOD**

6. The Commission participated in the AU Policy Organs Meetings that were held in Addis Ababa, Ethiopia, from **22 to 29 January 2018** as follows:
  - i. 35<sup>th</sup> Ordinary Session of the Permanent Representatives' Committee (PRC): 22 - 23 January 2018;
  - ii. 32<sup>nd</sup> Ordinary Session of the Executive Council (EC): 25 - 26 January 2018;
  - iii. 30<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government (the Assembly): 28 - 29 January 2018.
  
7. In addition, two (2) statutory meetings and one (1) institutional meeting were held during the reporting period, namely:
  - i. The 10<sup>th</sup> Meeting of the Joint Bureaux of the Commission and the African Court on Human and Peoples' Rights (the African Court) held on 27 January 2018 in Addis Ababa, Ethiopia;
  - ii. The 23<sup>rd</sup> Extra-Ordinary Session of the Commission, held from 13 to 22 February 2018 in Banjul, The Gambia; and
  - iii. The 62<sup>nd</sup> Ordinary Session of the Commission held from 25 April to 9 May 2018 in Nouakchott, Mauritania.

#### **30<sup>th</sup> African Union Summit, Addis Ababa-Ethiopia on 22 to 29 January 2018**

8. The 43<sup>rd</sup> Activity Report of the Commission was presented before the 35<sup>th</sup> Ordinary Session of the PRC. Following discussions at the PRC and Executive Council, the Activity Report was authorized for publication through Executive Council Decision **EX.CL/995(XXXII)** on the 43<sup>rd</sup> Activity Report of the Commission.
  
9. The Report has been published together with the observations of the State Parties and the responses of the Commission.

## II. STATUTORY AND INSTITUTIONAL MEETINGS

### **10<sup>th</sup> Meeting of the Joint Bureaux of the Commission and the African Court in Addis-Ababa, Ethiopia, 27 January 2018.**

10. As mandated by their Rules of Procedure, the Commission and the African Court held the 10<sup>th</sup> Meeting of the Joint Bureaux on the margins of the January Summit to adopt the Report of the Ninth (9<sup>th</sup>) Bureaux Meeting; assess the state of implementation of decisions adopted at the Sixth (6<sup>th</sup>) Annual Joint Meeting; prepare and organize the Seventh (7<sup>th</sup>) Annual Joint Meeting of the African Court and the Commission; and to discuss other joint activities.

### **23<sup>rd</sup> Extra-Ordinary Session–Banjul, Gambia, 13 to 22 February 2018**

11. Details of the activities undertaken by the Commission during its 23<sup>rd</sup> Extra-Ordinary Session are recorded in the relevant Final Communiqué, which is attached to this Report as Annex I. The Final Communiqué is also available on the website of the Commission at: [www.achpr.org](http://www.achpr.org).

### **62<sup>nd</sup> Ordinary Session - Nouakchott, Islamic Republic of Mauritania, 25 April to 9 May 2018**

12. Details of the activities undertaken by the Commission during its 62<sup>nd</sup> Ordinary Session are recorded in the Final Communiqué of the Session, which is attached to this Report as Annex II. The Final Communiqué is also available on the website of the Commission at: [www.achpr.org](http://www.achpr.org).
13. The inter-Session Reports presented by Members of the Commission and Special Rapporteurs during the 62<sup>nd</sup> Ordinary Session are also available on the website of the Commission at: [www.achpr.org](http://www.achpr.org).

## III. STATE REPORTING UNDER ARTICLE 62 OF THE CHARTER

14. The Commission considered the Initial and Combined Periodic Reports of Eritrea (1999-2016); and the 6<sup>th</sup> Periodic Report of Nigeria (2015-2016).
15. The Commission notes with satisfaction that Eritrea has for the first time, presented its periodic Report under Article 62 of the African Charter, making Eritrea up to date on its reporting obligations.
16. The Commission also notes with satisfaction that Nigeria presented this periodic report within the time stipulated in the Charter and that it also reported on the Maputo Protocol, thereby fulfilling fully its reporting obligations under Article 62 of the Charter and Article 26 of the Maputo Protocol.

17. The status of Submission of Periodic Reports to the Commission stands as follows:

<b>Status</b>	<b>State Party</b>
Up to date: <b>14</b>	Angola, Botswana, Côte d'Ivoire, Democratic Republic of Congo (DRC), Eritrea, Kenya, Mali, Mauritius, Namibia, Niger, Nigeria, Rwanda, South Africa and Togo.
1 Report overdue: <b>10</b>	Algeria, Burkina Faso, Djibouti, Ethiopia, Liberia, Malawi, Mozambique, Senegal, Sierra Leone and Uganda.
2 Reports overdue: <b>3</b>	Gabon, The Sudan, and the Sahrawi Arab Democratic Republic (SADR)
3 Reports overdue: <b>3</b>	Cameroon, Burundi and Libya.
More than 3 Reports overdue: <b>18</b>	Benin, Cape Verde, Central African Republic (CAR), Chad, Congo, Egypt, Ghana, Guinea Republic, Lesotho, Madagascar, Mauritania, Seychelles, Swaziland, Tanzania, The Gambia, Tunisia, Zambia and Zimbabwe.
Never submitted a Report: <b>5</b>	Comoros, Equatorial Guinea, Guinea Bissau, Sao Tome and Principe, South Sudan and Somalia.

18. The Commission has received the latest Periodic Reports of Angola, Botswana and Togo which will be considered at the 63<sup>rd</sup> Ordinary Session of the Commission.

19. Only ten (10) countries are up to date with their reporting obligations in terms of Article 26 of the Maputo Protocol, namely: Burkina Faso, DRC, Malawi, Mauritania, Namibia, Nigeria, Rwanda, Senegal, South Africa and Togo. This means that thirty-one (31) State Parties to the Maputo Protocol have not submitted reports under the Maputo Protocol.

20. Twenty-seven (27) States have ratified the Kampala Convention. However, no State Party has complied with Article 14 of the Kampala Convention which requires them to report the legislative and other measures which they have taken to give effect to the Convention.

#### IV. HUMAN RIGHTS COMPLAINTS BEFORE THE COMMISSION

##### Communications

21. Of the **232 (Two Hundred and Thirty-Two)** Communications currently pending before the Commission, the following were considered during the reporting period:

Session	Communication ( Name/Phase)
<b>23rd Extra-Ordinary Session</b>	<p><b>I. Seizure</b></p> <p><b>a. Seized</b></p> <ul style="list-style-type: none"> <li>i. <b>Communication 616/16</b> – <i>Jihad Essam Ahmed Mahmoud El-haddad (Represented by European Alliance For Human Rights &amp; 2 Ors) v. Egypt</i></li> <li>ii. <b>Communication 664/17</b> – <i>Ahmed Amin Ghazali Amin and ors v. Egypt</i></li> <li>iii. <b>Communication 665/17</b> – <i>Aser Mohamed v. Egypt</i></li> <li>iv. <b>Communication 666/17</b> – <i>Mahmoud Abu Zeid v. Egypt</i></li> <li>v. <b>Communication 667/17</b> – <i>Communauté swahilie et communauté twa (Represented by Via Volonté) v. Burundi</i></li> <li>vi. <b>Communication 672/17</b> – <i>X, Y &amp; Z ( Represented by Gonzalo Boye Tuset) v. Algeria</i></li> <li>vii. <b>Communication 674/17</b> – <i>The people of Egypt (represented by Dr. Curtis Francis Doebbler) v. Egypt</i></li> <li>viii. <b>Communication 675/17</b> – <i>A, M and Others (Represented by Professor Jorge E. Viñuales ) v. Egypt</i></li> <li>ix. <b>Communication 676/17</b> – <i>UNPO v. Ethiopia</i></li> <li>x. <b>Communication 677/17</b> – <i>Dr. Merara Gudina (represented by CAHDE) v. Ethiopia</i></li> <li>xi. <b>Communication 678/17</b> – <i>Ernest Acha and others v. Cameroon</i></li> <li>xii. <b>Communication 679/17</b> – <i>Kenyan for Peace with Truth and Justice (Represented by Kenya Human Rights Commission) v. Kenya</i></li> <li>xiii. <b>Communication 681/17</b> – <i>Famille de Feu Dieudonne Ntiburumusi (Represented by Trial International) v. Burundi</i></li> <li>xiv. <b>Communication 682/17</b> – <i>Ahmed Abba (Represented by CHRDA and RFKHR) v. Cameroon</i></li> <li>xv. <b>Communication 683/17</b> – <i>Famille de Feu Hermes Nduwingoma ( Represented by Trial International) v. Burundi</i></li> <li>xvi. <b>Communication 684/18</b> – <i>Seth Appiah- Mensah v. Ghana</i></li> </ul> <p><b>b. Seized and Provisional Measures Issued</b></p> <ul style="list-style-type: none"> <li>i. <b>Communication 669/17</b> – <i>Mohamed Wageeh Eid Taman, Refaat Talaat Tamer Abdul Gaber, Ahmed Sherif Ahmed AlLeithy and Abdul Rahman Hassan Dab v. Egypt</i></li> </ul>

- ii. **Communication 670/17** – *Fadhl Al Mawla Husni Ahmed Ismail and 19 Ors (Represented by Freedom and Justice Party of Egypt) v. Egypt*
- iii. **Communication 680/17** – *Nnamdi Kanu and the Indigenous People of the Biafra v. Nigeria*

## II. Non-Seizures

- i. **Communication 545/15** – *Mr. Abdel Meguid Mahmoud and Another (Represented by European Alliance for Human Rights) v. Egypt*
- ii. **Communication 546/15** – *Ali Mohammed & Another (Represented by European Alliance for Human Rights) v. Egypt*
- iii. **Communication 547/15** – *Mr Rabee Mohamed Abdel Moneim Abdel-Wahab and 2 others (Represented by European Alliance for Human Rights) v. Egypt*
- iv. **Communication 548/15** – *European Alliance for Human Rights v. Egypt*
- v. **Communication 549/15** – *Abdul Gameel Abdel Nabi Alhaas and Five Others (Represented by European Alliance for Human Rights) v. Egypt*
- vi. **Communication 551/15** – *European Alliance for Human Rights v. Egypt*
- vii. **Communication 552/15** – *European Alliance for Human Rights v. Egypt*
- viii. **Communication 553/15** – *Osama Abdel Dayem Fouad Kamel and Three Others (Represented by European Alliance for Human Rights) v. Egypt*
- ix. **Communication 554/15** – *European Alliance for Human Rights v. Egypt*

## III. Admissibility

### a. Inadmissible

- i. **Communication 508/15** – *Peter Odiwuor Ngoge, Roselyn Ayoti and 244 Former Employees of Unilever v. Kenya*
- ii. **Communication 524/15** – *Peter Ngoge and Three Others v. Kenya*

## IV. Struck-Out for Lack of Diligent Prosecution

- i. **Communication 468/14** – *Remember Miamingi v. South Sudan and Uganda*
- ii. **Communication 512/12** – *Mahmoud Hassan Ramadan Abdel-Naby and 57 Others v. Egypt*

	<ul style="list-style-type: none"> <li>iii. <b>Communication 543/15</b> – <i>European Alliance for Human Rights (AED), Professor Mostafa Metwaly, Dr Ezz al-Din Abdul Wahab Allam and Dr Amir Mohammad Bassam Mahmoud Youssef v. Egypt</i></li> <li>iv. <b>Communication 544/15</b> – <i>European Alliance for Human Rights (AED), Professor Mostafa Metwaly, Professor Dr Ahmed Jaber Mohammed Al-Haj and Dr Amir Mohammad Bassam Mahmoud Youssef v. Egypt</i></li> <li>v. <b>Communication 562/15</b> – <i>Mohammed Aly Abdel Raouf Aly (Represented by European Entente for Human Rights) v. Egypt</i></li> <li>vi. <b>Communication 574/15</b> – <i>Mr. Ammar Muhammad Badee Abdel-Magied Sami and Dr. Muhammad Badee Abdel-Magied Sami (Represented by European Alliance for Human Right v. Egypt</i></li> <li>vii. <b>Communication 592/15</b> – <i>Hesham Hamid Hamia Elshenna (Represented by Prof Mostafa Metwaly) v. Egypt</i></li> <li>viii. <b>Communication 613/16</b> – <i>Femi Falana v. Burundi</i></li> <li>ix. <b>Communication 614/16</b> – <i>Eid Mohammed Ismsil Dahrooj &amp; 2 others (Represented by AED and ors) v. Egypt</i></li> <li>x. <b>Communication 615/16</b> – <i>Medhat Mohammed Bahieddin Ahmed (Represented by the Organization of European Alliance for Human Right and 2 Ors) v. Egypt</i></li> <li>xi. <b>Communication 625/16</b> – <i>Basem Kamali Mohammed Odeh v. Egypt</i></li> <li>xii. <b>Communication 640/16</b> – <i>Sharif Hassan Jalal Samak (Represented by the Organisation of European Alliance for Human Rights and AMAN Organisation) v. Egypt</i></li> <li>xiii. <b>Communication 656/17</b> – <i>Anas Ahmed Khalifa v. Egypt</i></li> </ul> <p><b>V. Deferred</b></p> <ul style="list-style-type: none"> <li>i. <b>Communication 348/07</b> – <i>Collectifs des Familles des Disparu(e)s en Algerie v. Algeria</i></li> <li>ii. <b>Communication 431/12</b> – <i>Kwoyelo Thomas v. Uganda</i></li> <li>iii. <b>Communication 474/14</b> – <i>La Famille de Feu Jean Claude Ndimumahoro v. Burundi</i></li> <li>iv. <b>Communication 510/15</b> – <i>Abdel Moneem Adam Mohamed (Represented by Redress, ACJPS and EHAHRDP) v. The Sudan</i></li> <li>v. <b>Communication 564/15</b> – <i>Community Law Centre and three others v. Nigeria</i></li> </ul>
<p><b>62<sup>nd</sup> Ordinary Session</b></p>	<p><b>I. Seizure</b></p> <p><b>a) Seized</b></p> <ul style="list-style-type: none"> <li>i. <b>Communication 685/18</b> – <i>Nack Emmanuel (Represented by Ndikum Law Offices) v. Cameroon</i></li> <li>ii. <b>Communication 686/18</b> – <i>Association des Femmes Avocates Defenseurs des Droits Humains, Institute for Human Rights and Development in Africa &amp; Equality Now v. DRC</i></li> </ul>



- iii. **Communication 687/18** – *La famille de feu Banombi Sylvain (Represented by Observatoire Congolais des Droits de l'Homme and Institute for Human Rights and Development in Africa) v. DRC*
- iv. **Communication 691/18** – *Clément Abaïfouta and 6, 999 Others (Represented by Mrs. Jacqueline Moudeïna, Mrs. Lambi Soulgan and Mrs. Kenneloun Djiraibé, assisted by the Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme (ATPDH), The Redress Trust (REDRESS), Human Rights Watch (HRW) and Freshfields Bruckhaus Deringer LLP) v. Chad*

**b) Seized and Provisional Measures Issued**

- i. **Communication 688/18** – *Atemnkeng Richard (Represented by Mbufor Fonju John Law Firm) v. Cameroon*
- ii. **Communication 692/18** – *Jean Ping v. Gabon*

**II. Admissibility**

**a) Admissible**

- i. **Communication 476/14** – *Magdy Moustafa El-Baghdady v. The Sudan*

**III. Oral Hearing**

- i. **Communication 383/10** – *Mohammed Abdullah Saleh al-Asad v. Djibouti*

**IV. Merits**

**a) Reached a decision on the Merits**

- i. **Communication 431/12** – *Kwoyelo Thomas v. Uganda*

**V. Deferred**

- i. **Communication 348/07** – *Collectifs des Familles des Disparu(e)s en Algerie v. Algeria*
- ii. **Communication 438/12**: *Peter Odiwuor Ngoge, Mohammed Omar Musa and 6000 Other Former Employees of Kenya Breweries Limited (Represented by Peter Odiwuor Ngoge) v. Kenya*
- iii. **Communication 459/13** – *Devendranath Hurnam v. Mauritius*
- iv. **Communication 472/14** – *Famille de Feu Audace Vianney Habonarugira v. Burundi*
- v. **Communication 510/15** – *Abdel Moneem Adam Mohammed (Represented by REDRESS & Others) v. The Sudan*
- vi. **Communication 564/15** – *Community Law Centre and three others v. Nigeria*
- vii. **Communication 577/15** – *Hassan Ishag Ahmed (Represented by African Centre for Justice and Peace Studies & Ors.) v. The Sudan*
- viii. **Communication 600/16** – *Patrick Gabaakanye (Represented by Dingake Law Partners, DITSHAWANELO and REPRIVE) v. Botswana*

	<p>ix. <b>Communication 689/18</b> – <i>Cabinet d’Advocats KACK (Represented by Innocent Ondoa Nkou) v. Cameroon</i></p> <p>x. <b>Communication 690/18</b> – <i>Peter Odiwuor Ngoge T/A O.P Ngoge and Associates v. Kenya</i></p>
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22. The above tables show that during the period under review, the Commission was seized of twenty (20) Communications; decided not to be seized of nine (9); issued five (5) Provisional Measures; declared one (1) admissible and two (2) inadmissible; decided one (1) on the merits; held an Oral Hearing on one (1) Communication; struck out thirteen (13) for lack of diligent prosecution and deferred seventeen (17) Communications at various stages. The Commission also provided the Secretariat with guidance on two (2) Communications while reversing its decision to refer two (2) cases to the African Court.

## V. APPLICATIONS FOR AFFILIATE AND OBSERVER STATUS

23. The Commission granted Affiliate Status to the **Commission for Gender Equality** of South Africa in accordance with the Resolution on the Granting of Affiliate Status to National Human Rights Institutions and specialized human rights institutions in Africa. This is the first specialized human rights institution granted Affiliate Status with the Commission. Accordingly, the total number of institutions which have Affiliate Status with the Commission is **twenty-eight (28)**.

24. The Commission granted Observer Status to the following **three (3)** Non-Governmental Organizations (NGOs): Dream Factory Foundation (South Africa); Alkhatim Adlan Centre for Enlightenment and Human Development: KACE (Uganda); and *Observatoire Ivoirien des Droits de l’Homme* (Cote d’Ivoire). This brings the total number of NGOs with Observer Status with the Commission to **five hundred and eighteen (518)**.

## VI. STATE COMPLIANCE WITH THE COMMISSION’S DECISIONS, REQUESTS FOR PROVISIONAL MEASURES AND LETTERS OF URGENT APPEAL

25. The level of compliance by State Parties with the Commission’s Decisions, Requests for Provisional Measures and Letters of Urgent Appeal is relatively low, as evidenced by the following information:

### Implementation of the Commission’s Decisions

26. During the reporting period, the Commission did not receive any information regarding the implementation of its decisions in accordance with Rule 112 of its Rules of Procedure of 2010.

### Requests for Provisional Measures

27. During the reporting period, the Commission did not receive any responses on the five (5) Requests for Provisional Measures which it issued to State Parties as indicated in the table on Communications in paragraph 21 above.

### Letters of Urgent Appeal

28. During the period under review, **thirty-six (36)** Letters of Urgent Appeal were sent to State Parties, regarding allegations of violations of human rights. Out of the thirty-six (36), the Commission noted action in **seven (7)**; and **seven (7)** State Parties responded addressing the issues raised in the Urgent Appeals, as reflected in the table below:

1. Niger	16 April 2018	Concerning the violation of the right to information, right to assembly and arrest of human rights defenders following a protest on 25 March 2018.	The State is yet to respond
2. The Sudan	26 March 2018	Concerning alleged arrest of human rights defenders, authors, politicians, lawyers, teachers and students following demonstrations in The Sudan on 7 January 2018.	The State is yet to respond
3. Tanzania	26 March 2018	Concerning alleged abduction of a human rights defender who was taken by unknown assailants to an isolated place in Iringa, Southern Tanzania, more than 500km from Dar Es Salaam	The State is yet to respond
4. Tanzania	26 March 2018	Concerning alleged killing of a human rights defender by unknown assailants in front of his house in Morogoro region.	The State is yet to respond

5. Kenya	26 March 2018	Concerning allegations of a human rights defender who was killed by a police bullet during a protest.	The State is yet to respond
6. Uganda	23 March 2018	Concerning alleged child labour in extractive industries, particularly gold mining.	The State is yet to Respond
7. Uganda	23 March 2018	Concerning alleged break-ins, killing and physical assault and robbery on <i>Human Rights Awareness and Promotion Forum</i> and its members.	The State is yet to respond
8. Togo	20 March 2018	Concerning alleged arrest and detention of four human rights defenders from the <i>Nubueke Movement</i> ; the arrest of four members from <i>Africa Rising</i> ; and the killing of 10 people in the pro-democracy protests in Togo.	The State responded and indicated reasons and circumstances of the arrest, including measures taken to ensure respect of Article 7 of the Charter.
9. Burundi	20 March 2018	Concerning alleged judicial harassment of human rights defenders who were accused of recruiting only members of the opposition political party as whistle-blowers for human rights violations.	The State is yet to respond
10. Burundi	20 March 2018	Concerning alleged arrest and detention of a human rights defender accused of " <i>attacking the internal security of the state</i> " and " <i>rebellion</i> ."	The State is yet to respond

11. Algeria	26 February 2018	Concerning alleged detention of a human rights defender Amine Faddah in the Central Prison of Tiaret for charges linked to his Facebook posts that criticised massacres by the Algerian Government.	The State responded and indicated that the matter is pending before the Court.
12. Algeria	26 February 2018	Concerning alleged accusation of a human rights defender Abdellah Benaoum who could be sentenced with 2 years imprisonment and a fine of 200 000 Algerian Dinars for participating in an <i>"unauthorised protest and "insulting public institutions."</i>	The State responded indicating that the case has been closed and a decision has been rendered by the Court.
13. DRC	22 February 2018	Concerning adoption of the new Mining Code.	The law was signed and a letter of appreciation sent to the State on 19 March 2018
14. Egypt	20 February 2018	Concerning alleged arrest of 43 Nubian rights activists within the framework of the community's protest requesting their <i>"right of return"</i> as guaranteed by Article 236 of the 2014 Egyptian Constitution.	The State is yet to respond
15. Algeria	20 February 2018	Concerning allegations of imprisonment and financial penalty of Rafik Belamrania a human rights defender for <i>"sympathising with terrorism"</i> and <i>"excusing terrorism"</i> through a Facebook post.	The State is yet to respond

16. Cameroon	20 February 2018	Concerning alleged adjournment of the case of a human rights defender 55 times since the first hearing in May 2011 due to the absence in court of the landowner and his witnesses.	The State is yet to respond
17. Algeria	19 February 2018	Concerning alleged charges of <i>“insulting behaviour and production of false proof in relation to an imaginary crime”</i> against Barrister Nouredhine Ahmine after he filed a complaint on a torture case against the police for the brutal beating of an individual resulting in his death in 2015.	The State responded and gave clarification regarding the case.
18. Burundi	18 February 2018	Concerning alleged arrest and detention of two human rights defenders as they prepared to cross the border into the DRC.	The two human rights defenders were released on 19 February 2018. A letter of appreciation was sent to the State on 22 February 2018
19. DRC	17 February 2018	Concerning alleged arrest of five human rights defenders for provoking and inciting crimes towards public authorities.	The State is yet to respond
20. DRC	17 February 2018	Concerning alleged arrest of a human rights defender on a field mission, during which he was expected to meet local human rights defenders to discuss gender-based violence.	The State is yet to respond

21. The Sudan	17 February 2018	Concerning allegations of the Security Forces and the Sudanese police attack of secondary school students in a peaceful protest, killing one and leaving many wounded in Al-Geneina, West of Darfur.	The State is yet to respond
22. The Sudan	17 February 2018	Concerning allegations of human rights defenders and journalists who were arrested after a public protest that took place on 16 and 17 January 2018 in Khartoum and Omdurman respectively.	Three human rights defenders were released on 18 and 19 February. A letter of appreciation was sent to the State on 26 March 2018
23. DRC	17 February 2018	Concerning alleged arrest and detention of 7 members of <i>LUCHA Civil Society Movement</i> in Kisangani and Goma when they were informing the population about upcoming protest.	Four human rights defenders were released on 20 March 2018. A letter of appreciation was addressed to the State on 28 March 2018
24. Ethiopia	2 February 2018	Regarding the alleged use of force during the Ethiopian Orthodox church annual festival of Epiphany on 20 January 2018, where a number of youths were reportedly shot and others injured.	The State is yet to respond
25. Equatorial Guinea	31 January 2018	Regarding the arrest and prolonged detention of Mr. Ramón Esono Ebalé.	Mr. Ebalé was acquitted and released from custody in March 2018

26. Nigeria	29 January 2018	Concerning allegations of arrest of a human rights defender accused of intimidation, death threats and defamation immediately after the court hearing of his case at the High Court in Maitama District, Abuja, Nigeria.	The State responded and indicated that the matter is still pending in Court.
27. Uganda	29 January 2018	Concerning alleged arrest, detention, beating and inhumane treatment of human rights defenders who were arrested by the police in Uganda during a training to scale up the impact of leaders in social movements	The State responded in a letter signed by the President, H.E Yoweri Museveni, and provided more information about the reasons for the detention as well as an update on the release of the human rights defenders.
28. Tanzania	29 January 2018	Concerning alleged charges of a human rights defender for " <i>publication of false information</i> " in relation to a comment he posted on Facebook questioning the respect of procedures in the 2015 elections in Zanzibar.	The State is yet to respond
29. South Africa	29 January 2018	Concerning alleged assassination and physical attack of human rights defenders defending the rights of shack dwellers to basic services and political participation.	The State is yet to respond
30. Burundi	24 January 2018	Concerning alleged detention of a human rights defender for being in possession of documents that " <i>threaten national security.</i> "	The State is yet to respond



31. DRC	24 January 2018	Concerning arrest and detention of seven members of the <i>Filimbi Civil Society Movement</i> and the disappearance of one member when they were informing the population about the December 21 <sup>st</sup> 2017 protest	One human rights defender was released on 6 March 2018 and two others on 31 December 2017 and 2 January 2018
32. DRC	24 January 2018	Concerning alleged arrest of a human rights defender for taking part in a peaceful protest for democracy aimed at asking President Joseph Kabila to leave power organised by Filimbi.	The State is yet to respond
33. Egypt	24 January 2018	Concerning alleged arrest of a human rights defender for documenting the abusive use of force in military trials and the violation of the rights of detainees awaiting trial.	The State sent a response requesting more information about the case in order to prepare an adequate response
34. Niger	27 December 2017	Concerning alleged banning of an association and the arrest of its members for participating in an " <i>unauthorized protest</i> ", " <i>armed gathering</i> ", " <i>theft</i> " and " <i>complicity in theft</i> ".	The State is yet to respond
35. Cameroon	14 December 2017	Concerning alleged arrest of a human rights defender due to a Facebook post deemed to be " <i>a death threat</i> " and " <i>insult</i> " to the President of Cameroon	The human rights defender was released on 27 December 2017. A letter of appreciation was sent to the State on 22 February 2018

36. Liberia	22 November 2017	Relating to the general elections which were held to elect the President and members of the House of Representatives.	The State is yet to respond
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## VII. LETTERS OF APPRECIATION

29. During the reporting period **twelve (12) letters** of appreciation were sent to Heads of State and Government as follows:

State	Date of Letter	Positive development warranting Letter of Appreciation
1. Ghana	4 April 2018	Commending Ghana's hosting of the World Press Freedom Day, which held on 3 May 2018 in Accra. The State was encouraged to pass the Access to Information Bill.
2. The Gambia	16 April 2018	Congratulating the President of The Gambia on his declaration of a moratorium on the application of the Death Penalty in The Gambia.
3. Zimbabwe	27 April 2018	Commending the country for the amnesty granted in March 2018 to 3000 prisoners. The State was encouraged to undertake more actions aimed at improving the human rights record of the country.
4. DRC	19 March 2018	The signing into law of a new Mining Code.
5. DRC	28 March 2018	Release of seven human rights defenders and activists on 31 December 2017, 02 January and 6 and 20 March 2018.
6. The Sudan	26 March 2018	Release of human rights defenders and activists on 18 and 19 February 2018 arrested following

		the protests that took place on 16 and 17 January 2018 in Khartoum and Omdurman.
7. Cameroon	22 February 2018	Release of the writer and activist Mr. Alain Patrice Nganang on December 27 2017 following his arrest at the Douala International Airport on 6 December, 2017 and his detention at the Kondengui Central Prison.
8. Burundi	22 February 2018	Release of human rights defenders on 19 February 2018 following their arrest in Gatumba and detention in Bujumbura on February 17, 2017.
9. Mali	17 January 2018	For the adoption of a law on the protection on human rights defenders.
10. Burkina Faso	26 December 2017	Regarding the political will of the Burkinabe authorities to establish a body for the prevention of torture.
11. Mauritania	14 December 2017	For the annulment by the Nouadhibou Court of Appeal of the death sentence imposed on Mr. Mohamed Cheikh Ould.
12. Tanzania	29 November 2017	On the reform of mining legislation and regulatory frameworks in Tanzania.

## VIII. LETTER OF CONCERN

30. In following up on the implementation of the Commission's recent merits decision in *Communication 393/10 –Institute for Human Rights and Development in Africa and Others v. Democratic Republic of the Congo*, within the framework of the mandate of the Commission's Working Group on Extractive Industries, Environment and Human Rights, its Chairperson sent a letter to Anvil Mining Company, which contributed to the violations established in this case. The letter draws the attention of the company to the findings of the Commission, including the violations in which Anvil played a key part, urging the company to contribute to the implementation of the

measures that the Commission adopted in its decision for remedying the violations.

## **IX. PRESS STATEMENTS**

31. In addition to the various Press Releases issued by the Commission and its Special Mechanisms regarding promotion missions conducted and meetings organized, during the reporting period, the Commission also issued **thirteen (13)** Press Releases relating to various human rights issues. The Press Releases are available on the website of the Commission, at: [www.achpr.org](http://www.achpr.org).

## **X. PROMOTION AND FACTFINDING MISSIONS**

32. The Commission did not undertake any Promotion Missions during the reporting period. During that period, requests for Promotion Missions were sent to, Botswana, Cape Verde, Congo Brazzaville, Comoros, Ethiopia, Equatorial Guinea, Eritrea, Ghana, Guinea Bissau, Liberia, Lesotho, Mali, Madagascar, Mauritius, Mozambique, South Africa, South Sudan, Tanzania and Tunisia.
33. Botswana and South Africa authorized Promotion Missions in their countries on dates to be mutually agreed.
34. Tanzania responded to the Commission's call for a Promotion Mission and requested further information on the actualization of the Mission on dates to be mutually agreed.
35. The Commission also wishes to report that the Chairperson of the African Union Commission (AUC) had requested the Commission to undertake a Fact-finding Mission to Libya to investigate allegations that African migrants were being traded as slaves. Although several communications have taken place between the Commission and Libyan authorities, the mission had still not been authorized by Libya by the end of the reporting period.

## **XI. THE HUMAN RIGHTS SITUATION ON THE CONTINENT**

36. This section was introduced pursuant to Executive Council Decision **EX.CL/Dec.639 (XVIII)** calling upon the Commission to brief the Policy Organs on the human rights situation on the continent. The practice of the Commission is to draw the content of this section from the interactions of the Commission with State Parties, NHRIs with affiliate status with the Commission and NGOs with Observer Status with the Commission during Ordinary Sessions of the Commission, supplemented by information gathered as the Commission monitors the human rights situation in the various State Parties during the intersession period.

## Positive developments

37. The Commission notes with appreciation the following key positive human rights developments observed during the reporting period:

- i. Ratification of the Maputo Protocol by South Sudan and Ethiopia, which increased the number of State Parties to the Protocol to forty-one (41);
- ii. The ratification of the United Nations Convention on the Rights of Persons with Disabilities by Libya in February 2018;
- iii. The adoption by the AU Assembly of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa in January 2018;
- iv. The Adoption by the AU of the Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Right of Residence and Right of Establishment (Protocol on Free Movement), in January 2018, and its subsequent signing by twenty-seven (27) State Parties;
- v. The signing of the African Continental Free Trade Area (CFTA) in March 2018;
- vi. The adoption of a law to protect whistleblowers in Rwanda; the revision of the Penal Code decriminalizing defamation in Rwanda; and the commitment to decriminalise defamation by the new Government of Sierra-Leone;
- vii. The Adoption by Mali of a law on the protection of Human Rights Defenders in December 2017;
- viii. The adoption by Nigeria of the Anti-Torture Act in December 2017;
- ix. The publication of a new electoral calendar providing for general elections on 23 December 2018 in the DRC, as well as the promulgation of a new Mining Code in March 2018 which enshrines the sovereignty of the DRC over its mineral resources;
- x. The continuing transitional project in The Gambia with the adoption of the Truth, Reconciliation and Reparations Commission Act, and the National Human Rights Commission Act in December 2017;
- xi. Following adoption of the Access to Information Act by Malawi in 2017, the establishment of a Tripartite Steering Committee to prepare the groundwork for making the Act operational;
- xii. The amendment of the law on the composition, organization and attributions of the National Commission on Human Rights of Togo, aimed at integrating national mechanisms to prevent torture in October 2017 and April 2018 after a decision of the Constitutional Court;
- xiii. The passing of a Presidential Order by Rwanda increasing pension and occupational hazards benefits by up to 149.8% in April 2018;
- xiv. The decision of the High Court of Kenya in April 2018 which stopped the installation of the Device Management System on mobile phone

- platforms, determining that this would breach privacy and consumer rights;
- xv. The recent judgement of the Court of Justice of ECOWAS which directed The Gambia to immediately repeal or amend criminal laws on criminal libel, sedition and false news in compliance with international obligations;
  - xvi. Peaceful Presidential Elections in Egypt, Liberia and Sierra Leone;
  - xvii. The pardoning of prisoners by Ethiopia and Zimbabwe, as well as the release of petty offenders in Nigeria;
  - xviii. The announcement and official gazetting of the Moratorium on the Death Penalty by The Gambia on 18 February 2018;
  - xix. The indication by South Africa in February 2018 that it would gradually regularise the activities of illegal miners on condition that they operated within the law; and
  - xx. The historic ruling of the Supreme Court of Kenya, in December 2017, declaring the mandatory death sentence for murder or armed robbery as unconstitutional.

### **Areas of concern**

38. The Commission notes the following human rights concerns which were observed during the reporting period:
- i. The low level of ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa which have been ratified only by the following five (5) States: Benin, Comoros, Ghana, Sierra Leone, and Zambia;
  - ii. The low level of reporting under Article 26 of the Maputo Protocol by Member States;
  - iii. The deadly inter-communal conflicts in Nigeria between Fulani pastoralists and neighbouring farming communities;
  - iv. The humanitarian crisis in refugee camps in Cameroon following the flow of refugees from Nigeria and Central African Republic, and continued human rights violations committed in the country since October 2016;
  - v. The increasingly critical humanitarian situation faced by many internally displaced persons in the regions of Kasai, North Kivu and South Kivu in the DRC;
  - vi. In Mali, the deteriorating security situation, following the killing of civilians in the central part of the country on 27 April 2018, caused by terrorist attacks;
  - vii. In Mauritania, the amendment of Article 306 of the Criminal Code on 27 April 2018, making the death penalty mandatory for any person convicted of "blasphemous speech" and acts deemed "sacrilegious;"

- viii. In Nigeria, the continued captivity of Leah Saribu and the remaining Chibok and Dapchi girls captured on April 2014 and February 2018 respectively; and
- ix. The shutdown of several media houses in Kenya for a number of days despite court orders to the contrary.

## **XII. ADMINISTRATIVE AND FINANCIAL SITUATION**

### **Construction of the Commission's Headquarters**

39. **Decision EX.CL/995(XXXII)**, requests the Host Government to expedite finalization of the process of constructing the Headquarters and to report on progress made. The Gambian Delegation to the 62<sup>nd</sup> Ordinary Session reiterated the commitment earlier expressed by the President of The Gambia on the construction of the Headquarters, and a meeting had been held between the Secretariat and the authorities with regards to the design of the Headquarters.

### **Staffing**

40. The Commission welcomes the efforts made by the Administration and Human Resource Management Department of the AUC with regards to recruitment this inter-session. An Assistant Documentalist and an Administrative Assistant have been recruited and interviews have been completed for the position of ICT Officer (Regular). Additionally, interviews have been scheduled for the positions of Finance Officer (short-term -PANAF), 2 Senior Legal Officers-Protection (short-term PANAF), Senior Planning, Monitoring and Evaluation Officer (short-term-PANAF), Senior Administration and Human Resource Officer (Regular) and Human Resource Assistant (Regular). Also, pre-screening is underway for the following positions: Deputy Secretary (Regular), Public Relations/Information Officer (Regular), Legal Officer-Promotion, Portuguese or Arabic (Regular), Translator/Interpreter (Regular), Secretary (Regular) and Reviser-French (short-term-PANAF).

## **XIII. IMPLEMENTATION OF DECISIONS**

### **Retreat between the PRC and the Commission**

41. Executive Council **Decision EX.CL/995(XXXII)** on the 43<sup>rd</sup> Activity Report of the Commission, requested the convening of a Retreat between the PRC and the Commission, to resolve various concerns about the relationships between the Commission, the Policy Organs and States. The Retreat took place from 4 to 5 June 2018, at Safari Park Hotel, Nairobi, Kenya.

### **Grant of Observer Status to the NGO called Coalition of African Lesbians (CAL)**

42. It will be recalled that Executive Council **Decision Ex.CL/887(XXVII)** on the Commission's 38<sup>th</sup> Activity Report called on the Commission to withdraw the Observer Status granted to the NGO called Coalition of African Lesbians (CAL). Following an application by two NGOs for an Advisory Opinion before the African Court, the Commission reported in its 39<sup>th</sup> Activity Report that the subject-matter was subjudice and hence it would defer further action while the application was before the African Court. With the African Court unable to issue an Advisory Opinion for want of jurisdiction, the Commission provided an update in its 43<sup>rd</sup> Activity Report, explaining the legal basis upon which it had given NGO Observer Status to CAL.
43. Noting, however, that Executive Council **Decision EX.CL/Dec.995(XXXII)** reiterated the call on the Commission to withdraw CAL's NGO Observer Status, the Commission wishes to report that it deliberated on the matter extensively during its 62<sup>nd</sup> Ordinary Session. Following those deliberations, the Commission decided that, in pursuing the request of the Executive Council, it has to abide by and apply due process in order to ensure legality, compliance with the African Charter and its juridical mandate. Accordingly, the Commission will forthwith institute a process for judicially determining the request to withdraw NGO Observer Status from CAL. The Commission will report its final determination on this matter in its next Activity Report.

#### **Governance Structure of the Commission and Emoluments of Elected Officials**

44. Executive Council **Decisions EX.CL/Dec.974 (XXXI)** and **Ext/EX.CL/Dec.1(XIII)** specifically request the AUC to come up with a proposal to harmonize the remuneration of elected Officials of AU Organs for consideration and adoption. Members of the Commission and the Commission's Bureau undertake the bulk of their thematic mandates and oversight over the Secretariat during the inter-session. Yet, they work on a part-time basis, which tends to have an adverse impact on the ability of the Commission to implement its work fully. Furthermore, the Commission's continuous mandate of monitoring and responding to emerging human rights situations on the continent makes it imperative that the Chairperson of the Commission should be based at the Secretariat of the Commission on a fulltime basis.
45. It is therefore necessary that the Chairperson of the Commission be appointed on a full-time basis. The On-going harmonization of emoluments of elected officials should also be finalized expeditiously. In the meantime, Commissioners should be paid a monthly duty allowance in addition to the sitting allowance presently payable to them during sessions of the Commission. The costing of these requests is annexed to this Activity Report.



## **AU Commission Mission to Banjul**

46. The AUC Mission to the Secretariat of the Commission authorised by **Decision EX.CL/Dec.974 (XXXI)** on the 42<sup>nd</sup> Activity Report is yet to take place. On 16 April 2018, the Secretary to the ACHPR sent a follow-up Memo regarding the Mission.
47. While the Mission is yet to be undertaken, the ACHPR notes that during a visit to The Gambia to attend the Conference of the West African College of Surgeons, the Deputy Chairperson of the AUC visited the Secretariat of the ACHPR during which he met with staff and engaged them on the work of the ACHPR as well as their challenges and concerns. He also met with the Government of The Gambia during which he commended their efforts in hosting the ACHPR for the past 30 years as well as their efforts towards the construction of a permanent headquarters for the ACHPR.

## **Mission to the territory of the Sahrawi Arab Democratic Republic or Western Sahara under the control of the Kingdom of Morocco**

48. The Executive Council, in its Decision **EX.CL/995(XXXII)** on the 43<sup>rd</sup> Activity Report of the Commission, called on Morocco to initiate a dialogue with the ACHPR towards the facilitation of the Commission's Mission to the territory of the Sahrawi Arab Democratic Republic or Western Sahara under the control of Morocco. In February 2018, a follow-up letter was sent to Morocco by the Chairperson of the Commission indicating that she is open to any practical measures proposed in order to implement the decision of the Executive Council. The Commission looks forward to Morocco's response on this matter.

## **XIV. DATES AND VENUE OF THE 24<sup>th</sup> EXTRA-ORDINARY SESSION AND 63<sup>rd</sup> ORDINARY SESSION OF THE COMMISSION**

49. The 24<sup>th</sup> Extra-Ordinary Session of the Commission will take place from 30 July to 8 August 2018, in Banjul, The Gambia; and its 63<sup>rd</sup> Ordinary Session will take place from 24 October to 7 November 2018, in Banjul, The Gambia.
50. The Commission expresses its appreciation to the Government of Mauritania for hosting the 62<sup>nd</sup> Ordinary Session and for the country's hospitality. It also commends State Parties that have already hosted Sessions of the Commission; Egypt for offering to host the 64<sup>th</sup> Ordinary Session of the Commission; and takes note of Lesotho, Malawi and eSwatini who have offered to host subsequent Sessions of the Commission.

## **XV. RECOMMENDATIONS**

51. In light of the foregoing, the Commission recommends as follows:

### **a) State Parties to**

- i. Ratify, implement and domesticate the various human rights instruments of the AU; in particular, the Maputo Protocol, the Kampala Convention, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, and the Protocol on Free Movement;
- ii. Submit their Periodic Reports in compliance with Article 62 of the African Charter; Article 26 of the Maputo Protocol; and Article 14 of the Kampala Convention;
- iii. Provide the Commission with all relevant information on the measures taken to implement its decisions in accordance with Rule 112 of its Rules of Procedure, as well as respect and implement the Provisional Measures issued by the Commission;
- iv. Respond to Urgent Letters of Appeal sent by the Commission;
- v. Accede to the Commission's requests to undertake missions in their countries;
- vi. Take all legislative and other measures to address the various concerns highlighted by the Commission; and
- vii. Consider hosting Ordinary Sessions of the Commission.

**b) To the Kingdom of Morocco**

- i. Ratify the African Charter, and grant the Commission authorization to undertake the mission mandated by **Decision EX.CL/Dec. 689(XX)**;
- ii. Engage in dialogue with the Commission towards facilitating the conduct of the mission as mandated by **Decision EX.CL/Dec.995(XXXII)**.

**c) To the AUC**

- i. Approve the commencement of the process of appointing the Chairperson of the ACHPR on a full-time basis, and expeditiously finalize the on-going review and harmonization of the emoluments of elected officials;
- ii. Finalise implementation of various Executive Council Decisions calling for expedited recruitment to the vacant positions in the Secretariat, and more particularly recruitment of Arabic and Portuguese Legal Officers and Translators as per **Decision EX.CL/Dec.974(XXXI)**;

**d) PRC**

Support implementation of the outcomes of the Joint Retreat between the PRC and the Commission.

**e) To the Assembly of Heads of State and Government:**

Assist the Commission to get authorization from the Kingdom of Morocco and Libya to undertake the requested missions.