

# **Standard Operating Procedures on the Special Mechanisms of the African Commission on Human and Peoples' Rights**

## **Introduction**

Chapter VI of the 2020 Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission) governs the establishment and procedures of Special Mechanisms of the Commission.

Pursuant to Rule 25, the Commission creates Special Mechanisms such as Special Rapporteurs, Committees and Working Groups. The Commission determines the mandate and terms of reference of each Special Mechanism, and the Commission's Rules of Procedure apply *mutatis mutandis* to the proceedings of the Special Mechanisms.

Committees and Working Groups may be mandated to work on internal matters of the Commission (internal Special Mechanisms), or they may cover specific human rights issues (thematic Special Mechanisms).

These Standard Operating Procedures (SOPs) supplement the provisions of the Rules of Procedure of the Commission, and apply specifically to thematic Special Mechanisms. The SOPs provide guidance on the general roles and responsibilities of mandate holders; the composition, appointment, tenure and conduct of mandate holders; and the working modalities of Special Mechanisms.

### **I. Establishment of Special Mechanisms**

1. Special Mechanisms may be established in accordance with Rule 25 (1) of the Commission's Rules of Procedure. The decision to establish a Special Mechanism, the grounds for such decision and the mandate of the Mechanism shall be reflected in a resolution adopted by the Commission.
2. Special Mechanisms comprise Rapporteurs, Working Groups and Committees.

### **II. General roles and responsibilities of Mandate Holders**

3. Within the scope of the identified thematic area and the resolution establishing the Special Mechanism, the general roles and responsibilities of Mandate Holders include:
  - a. Seeking, receiving, examining and taking action on information related to their mandate area;

- b. Cooperating and engaging with State Parties, national human rights institutions, relevant intergovernmental organisations, international and regional mechanisms, and civil society organisations;
- c. Setting standards and developing strategies for the better promotion and protection of human and peoples' rights; and
- d. Submitting reports at each Ordinary Session of the Commission.

### **III. Composition of Special Mechanisms**

#### *A. Membership to Committees or Working Groups*

- 4. The Bureau of a Committee or Working Group shall be composed of a Chairperson and a Vice-Chairperson. Only a Member of the Commission can become Chairperson of a Committee or Working Group.
- 5. The Secretariat of the Commission shall provide support to the Special Mechanisms.
- 6. Committees and Working Groups shall be composed of a maximum of eight (8) Members, including three (3) Members of the Commission and five (5) Expert Members.
- 7. Due consideration shall be given to gender, linguistic and geographic representation in the composition of a Special Mechanism. Consideration shall also be given to appropriate representation of different legal systems.

#### *B. Appointment as Member of a Committee or Working Group*

- 8. A public call for applications to fill the post of Expert Member shall be published. The criteria to be employed in the selection of candidates shall be reflected in the call for applications.
- 9. Qualified individuals may apply or be nominated for the position of Expert Member.
- 10. Expert Members of a Committee or Working Group are required to possess proven skills and experience in the thematic area of a Special Mechanism.
- 11. Only nationals of a State Party to the African Charter can be appointed as Expert Members.
- 12. Candidates for Expert Members shall be proposed by Commissioner Members of a Special Mechanism and approved by a resolution of the Commission.

#### *C. Term of office of Members*

13. Expert Members shall serve for a term of two years, which may be renewed two times. This rule shall not apply retroactively.

#### **IV. Code of conduct of Mandate Holders**

14. Members shall:

- a. Act in an independent capacity and not seek or accept instructions from any governmental or non-governmental entity or any individual in the execution of their mandate;
- b. Exercise their functions in accordance with their mandate and in compliance with the present SOPs;
- c. Uphold the highest standards of efficiency, competence, integrity, impartiality, equity, honesty and good faith;
- d. Bear in mind the mandate of the Commission to promote and protect human and peoples' rights in Africa, in the exercise of their functions;
- e. Fully commit to the fulfilment of the Special Mechanism's mandate by investing their expertise and time;
- f. Not use their office or knowledge gained from their functions for private gain, financial or otherwise, or for the gain and/or detriment of any family member, close associate or third party; and
- g. Not accept any honour, decoration, favour, gift or remuneration from any governmental or non-governmental source for activities carried out in pursuit of their mandate, if doing so would appear to call into question their integrity or relationship with the entity offering the gift.

15. Members of a Special Mechanism shall disclose any interest which may be considered to be in conflict with their mandate.

16. Breaches of the code of conduct may result in a notice from the Bureau of the Special Mechanism, which if not addressed, may result in termination or non-renewal of the term of a Member.

#### **V. Working modalities of Special Mechanisms**

##### **A. Action on allegations**

17. Special Mechanisms shall take account of all available sources of information which they consider to be credible and relevant, including information from Governments, inter-governmental organizations, international and national non-governmental organizations, national human rights institutions, victims of alleged

human rights violations or abuses, relatives of victims and witnesses. The Special Mechanisms shall cross-check information received to the best extent possible.

18. In consideration of the sensitive nature of issues that arise, Special Mechanisms shall rely on objective and dependable facts based on appropriate evidentiary standards. Further, appropriate opportunities shall be provided for Government representatives to comment on allegations made against them.
19. Information submitted to Special Mechanisms alleging violations shall be in written, printed or electronic format and include the sender's identity and address, as well as the full details of the relevant incident or situation.
20. The decision to take action on information or a situation shall be exercised in light of the mandate entrusted to the Mechanism, the reliability of the source, the credibility of the information received and the details provided.
21. Special Mechanisms are encouraged to take joint action whenever this seems appropriate.
22. Any action on information must be expressly authorised by the relevant Special Mechanism(s).
23. Unless necessary, Special Mechanisms shall not reveal sources of information in order to protect sources against reprisal or retaliation.
24. The text of all communications sent to States and responses received is confidential until such time as they are published in the relevant inter-session reports of Special Mechanisms. However, general information on the transmittal of a correspondence on an issue may be announced on the website of the Commission.

#### *Urgent Appeals*

25. Special Mechanisms may issue urgent appeals in response to emergency situations.
26. Special Mechanisms shall use urgent appeals to communicate information in cases where the alleged violation(s) are time-sensitive, or where they are causing imminent or ongoing damage of a grave nature to victims.
27. Urgent appeals shall seek to prevent irreparable harm to the victim(s) by requiring State authorities to intervene in order to end or prevent the violation.
28. Urgent appeals shall generally request States to provide a substantive response within a reasonable period of time, and those responses shall be reflected in the activity reports of Special Mechanisms.

### Letters of Concern

29. Special Mechanisms shall use letters of concern to communicate information about violations that are alleged to have already occurred, in situations where urgent appeals do not apply.
30. Letters of concern shall generally request States to provide a substantive response within a reasonable period of time, and those responses shall be reflected in the activity reports of Special Mechanisms.

### Letters of Appreciation

31. Where information on positive developments is received, a Special Mechanism may issue a Letter of appreciation to congratulate and support the positive development. Letters of appreciation may also be sent to welcome implementation of recommendations that remedy violations, as requested in urgent appeals or letters of concern.

### Public or Press Statements

32. In appropriate situations, including those of grave concern or in which a State has repeatedly failed to provide a substantive response to urgent appeals or letters of concern, a Special Mechanism may issue a press statement or other public statement, either individually or jointly with other Special Mechanisms or a Country Rapporteur.

### Resolutions

33. A Special Mechanism may initiate a draft resolution concerning issues that fall within its mandate, and submit it for consideration by the Commission. Where the resolution relates to a situation in a specific country, the Special Mechanism shall liaise with the concerned Country Rapporteur.

### **B. Periodic state reports**

34. Special Mechanisms shall engage States on their mandate areas during the consideration of periodic state reports.

### **C. Country visits**

35. Special Mechanisms may carry out country visits, including promotion visits, protection visits, information visits and advocacy visits.
36. Country visits present Special Mechanisms the opportunity to engage with multiple stakeholders in a country, assess the actual human rights situation in a country and make appropriate recommendations.

37. Special Mechanisms shall present promotion and protection mission reports to the Commission for adoption.

#### **D. Thematic reports, studies and norm elaboration**

38. Special Mechanisms may prepare thematic reports and studies. Special Mechanisms may elaborate on relevant provisions of the African Charter by initiating the preparation of soft-law instruments or draft Protocols. Special Mechanisms may also initiate the preparation of soft-law instruments to supplement the provisions of the Protocols to the African Charter.

39. Special Mechanisms shall first receive authorisation through a resolution of the Commission before commencing the preparation of a soft-law instrument or a draft Protocol.

40. The standards, processes and level of consultation required in norm elaboration by Special Mechanisms shall be regulated by the Commission's Standard Operating Procedures on Norm Elaboration.

#### **E. Awareness raising**

41. Thematic Special Mechanisms shall play an important role in dissemination and awareness raising on specific issues and situations relevant to their mandates. The nature of measures to raise awareness will vary from one Mechanism to another.

42. Special Mechanisms may also carry out capacity building activities or sensitisation seminars.

#### **F. Joint action**

43. Special Mechanisms are encouraged to share information and take joint action on issues that are cross-cutting and relate to multiple mandates. These joint actions include urgent appeals, letters of concern, letters of appreciation, press statements, norm elaboration, country visits, awareness raising activities or other action. Special Mechanisms may also take joint action with a Country Rapporteur as appropriate.

44. Where a joint action is proposed, and one or more Special Mechanisms or Country Rapporteur declines or fails to respond within a reasonable time, the proposing Special Mechanism may proceed to carry out the action.

45. Special Mechanisms may also carry out joint activities with the Special Procedures of the United Nations Human Rights Council, the Office of the High Commissioner for Human Rights and other relevant human rights institutions.

### **G. Reporting**

46. Special Mechanisms shall submit regular reports of their activities to the Commission. Inter-session reports shall reflect correspondences sent by Special Mechanisms as well as responses received.
47. The reports of Special Mechanisms shall be published on the Commission's website by the start of the Ordinary Session at which they will be considered.

### **H. Follow-up**

48. Reminders on communications may be sent to States in relation to unanswered correspondences.
49. Special Mechanisms may engage with States during the presentation of their inter-session reports on measures taken to implement their recommendations. Further, the recommendations may be included in the Commission's activity report which is submitted to the African Union Policy Organs.

## **VI. Relations with stakeholders**

50. Special Mechanisms shall engage States in their activities to the best extent possible. They shall maintain a systematic and constructive dialogue with States and key partners, including national human rights institutions, international and regional human rights organisations and non-governmental organisations working on human rights in Africa.

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