

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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PRESS BRIEFING ON THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

A. ABOUT THE COMMISSION

1. The African Commission on Human and Peoples' Rights was established in terms of Article 30 of the African Charter on Human and Peoples' Rights (the African Charter), which came into force on 21 October 1981. The Commission is composed of eleven (11) Members, nationals of Member States of the African Union (AU), who all serve in their individual capacities, on a part-time basis, in an independent and impartial manner. The Members are elected by the Executive Council and appointed by the Assembly of Heads of State and Government of the AU. The Members serve for a period of six (6) years and are eligible for re-election. The Commission, which has its Headquarters in Banjul, The Gambia, became operational in 1987 – which means it will be celebrating its 31st year Anniversary in October this year (2018). The Commission holds two (2) Ordinary Sessions a year; it also holds Extra-Ordinary Sessions as the need arises. The Commission has held sixty-two (62) ordinary sessions and twenty-four (24) extra-ordinary sessions since its inception.

Mandate of the Commission

2. The mandate of the Commission as set out in Article 45 of the African Charter is four-fold: to promote human and peoples' rights on the continent; to protect human and people's rights on the continent; to interpret the provisions of the African Charter at the request of a State Party, an institution of the OAU/AU or an African Organization recognized by the OAU/AU; and to perform any other functions as may be entrusted to it by the Assembly of Heads of State and Government of the OAU/AU.

Operational Modalities

3. The Commission has devised a number of strategies to effectively discharge this very extensive mandate, as follows:

(i) Promotional Missions – the Commission undertakes official missions to AU Member States to promote human rights.

(ii) Special Mechanisms – The Commission has established 12 Thematic Special Mechanisms to address human rights issues that are of particular concern to the Commission: **5 Special Rapporteurs, 2 Follow-up Committees and 5 Working Groups.**

(iii) Consideration of complaints – In line with the African Charter, the Commission receives and considers allegations of human rights violations submitted to it by Member States. Among other things, the Commission undertakes research into the complaints and prepares decisions at each of the 3 stages of its consideration of a complaint, namely: – seizure, admissibility and merits. The Commission, through its Secretariat also keeps the Member States and the complainants abreast of what is happening regarding their cases, and also follows up on the implementation of its decisions. Since its establishment, the Commission has entertained six hundred and ninety-six (696) human rights complaints, and at the moment, there are two hundred and twenty-six (226)

human rights complaints currently pending before the Commission, generally referred to as Communications.

In cases with demonstrated potentials for irreparable damage, the Commission issues Provisional Measures, in order to preserve the *status quo*, pending the determination of the Communication.

(iv) Urgent appeals - the Commission receives complaints and appeals that require urgent action to be taken to prevent irreparable harm being caused to the alleged victims.

(v) Fact-finding missions - the Commission undertakes an average of one fact-finding mission a year to investigate allegations of serious, massive violations of human rights or any other investigations as directed by Policy Organs.

(vi) State Reports – Article 62 of the African Charter requires Member States to submit Initial as well as Periodic Reports to the Commission every 2 years, indicating the measures they have taken to give effect to the rights contained in the Charter. The Secretariat of the Commission uploads the Reports onto the website of the Commission, studies them, drafts summaries, undertakes research into the human rights situation in the country, and prepares the questions to be posed by the Commission to the Member States during the examination of the State Report. In engaging with the State Report, the Commission also takes into account shadow reports and any information provided by National Human Rights Institutions, Non-Governmental Organisations (NGOs), and other stakeholders. At the end of the examination, the Commission makes Concluding Observations and Recommendations for implementation by Member States and follows up on their implementation.

(vii) Collaborative activities - the Commission undertakes collaborative activities with Member States, National Human Rights Institutions/Commissions and NGOs, as well as international institutions concerned with the promotion and

protection of human and peoples' rights, in accordance with Article 45 of the Charter.

Jurisdiction

4. All Member States of the AU, apart from the Kingdom of Morocco, have ratified the Charter. Anybody can bring a claim before the Commission alleging human rights violations against any Member State of the AU; and the Commission can also entertain inter-State complaints, as well as complaints by NGOs and by individuals – as long as the complaints allege a violation of rights enshrined in the African Charter, domestic remedies have been exhausted, and the same matter has not already been settled by another international forum, or is not currently before another international forum.
5. The Commission is quasi-judicial in nature. Consequently, while Member States have a duty to comply with its decisions and recommendations in line with their obligations under Article 1 of the African Charter, the decisions and recommendations of the Commission do not have the same legal binding nature as Court's decisions.
6. It is this last consideration that led to the establishment of the African Court on Human and Peoples' Rights (the African Court), with a specific mandate to complement and reinforce the protective mandate of the Commission.

In this regard, the Commission may refer cases to the African Court in line with its Rules of Procedure, consequent which it has referred a total of 6 (six) cases to the African Court, of which: two (2) have been substantively decided by the Court (with one pending determination on reparations); one (1) has been struck out; and three (3) were upon review, reverted for decision at the level of the Commission.