

African Court on Human and Peoples' Rights

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The African Court on Human and Peoples' Rights is a judicial body that delivers binding judgments on compliance with the African Charter

Location: Arusha, Tanzania

Established: 2004

States: 26 African Union (AU) member states have ratified the Protocol establishing the Court: Algeria, Burkina Faso, Burundi, Cote d'Ivoire, Comoros, Congo, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, South Africa, Senegal, Tanzania, Togo, Tunisia and Uganda. Six States have issued declarations allowing for individual applications: Burkina Faso, Ghana, Malawi, Mali, Rwanda, and Tanzania

Establishment

The African Court on Human and Peoples' Rights ("the Court") was established by the Protocol to the African Charter on Human and Peoples' Rights ("the Charter"), which was adopted by Member States of the then Organization of African Unity in Ouagadougou, Burkina Faso in June 1998. The Protocol entered into force in January 2004, after ratification by 15 Member States.

In 2004, out of concern for the growing number of AU institutions, the AU decided to integrate the Court with the African Court of Justice, creating an African Court of Justice and Human and Peoples' Rights. The new combined court is yet not operational, but it is ultimately intended to be the principal judicial organ of the AU.

Judges

In 2006, the first eleven judges of the Court were elected and sworn in. Each judge serves a six-year term and can be re-elected once. All judges, except the President of the Court, serve on a part-time basis.

Jurisdiction

Article 3 of the Protocol extends jurisdiction to "all cases and disputes submitted to it concerning the interpretation and application of the Charter", the Protocol and other human rights instruments that states have ratified. In addition, Article 4 gives the Court jurisdiction to issue advisory opinions on "any legal matter relating to the Charter or other relevant human rights instruments, provided that the subject matter of the opinion is not related to a matter being examined by the Commission."

Admissibility

Under Article 56 of the African Charter, the Court must consider a number of factors when deciding upon the admissibility of a case. This includes determining whether an applicant has submitted the communication within a reasonable time after the alleged violation/s, and whether domestic remedies have been exhausted, except in cases where procedures would unduly prolong a case. The Court is permitted to seek an opinion from the African Commission when deciding on the admissibility of direct communications submitted by individuals and NGOs.

Procedure

Applications to the Court may be made by the African Commission or other African intergovernmental organizations, by States who have lodged (or against who has been lodged) a complaint at the Commission, and by States whose citizen is a victim of a human rights violation. Other states who are party to the Court's Protocol and have an interest in a case may be permitted by the Court to join the proceedings.

In addition, applications may also be lodged directly by individuals and by NGOs with Observer Status before the African Commission, however only against those states who have made a declaration accepting the competence of the Court to receive applications from these entities under Article 5(3) of the Protocol. As of mid 2013, six such declarations have been made, by Burkina Faso, Ghana, Malawi, Mali, Rwanda, and Tanzania.

Cases before the Court involve a written phase, and may also include an oral phase of proceedings at which the parties may make submissions and also present evidence and call witnesses. Once a case has been heard, the Protocol requires that judges issue a decision within 90 days of completing deliberations.

Remedies

If the Court finds the rights of an applicant have been violated, it can order remedial measures such as compensation or reparations. Article 27 of the Protocol also allows the Court to order provisional measures, if a case is of "extreme gravity and urgency, and when necessary to avoid irreparable harm."

Enforcement

Member States subject to the Court's jurisdiction must comply with judgments in any case to which they are parties, within the time given by the Court. States are also responsible for guaranteeing execution of the Court's judgments. If a State fails to comply, this failure is noted in the Court's report to the Assembly, as required under Article 31 of the Protocol.

Court Documents

- [African Charter on Human and Peoples' Rights](#)
- [Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights](#)
- [Rules of the African Court on Human and Peoples' Rights](#) (PDF)

Related Links

- [African Commission on Human and Peoples' Rights](#)
- [African Union](#)

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