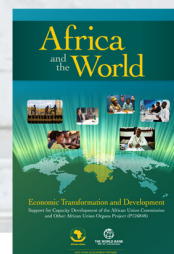




*Transforming the African Union
to drive the Africa we want.*

Case study six:

Building the Africa We Want within Legal Requirements and AU's Constitutive Instruments



CONTENT



4

Editorial

5

Key figures

6

An Office to improve the day-to-day activities of the African Union through Legal Framework

10

Supporting and Synergizing AU's Legal Structures in promoting Good Governance practices in Africa

14

Promoting Legal Frameworks through Capacity Building and Training Programs

16

Fighting against Impunity

18

Interview

20

2016 Legal Associate Profiles



EDITORIAL

Prof. Vincent O. Nmehielle

Legal Counsel & Director for Legal Affairs
of the African Union Commission *

Fifty four (54) Member States of the African Union (AU) are working to build an “integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force on the international scene.” These governments have their own priorities and in order to enable the African Union to fulfill its mandate, reconciling the conflicting interests of its Member States is essential.

Fifty Eight (58) treaties have been adopted by the Organization of the African Union (OAU) and the AU to date. Thirty-four (34) of these treaties have entered into force. These Instruments define the framework within which Member States engage themselves to each other in specific areas. Their adoption is therefore an important step in uniting the Continent and in building the Africa that we want.

However, the definition and implementation of agreements needs to be constantly monitored both in its interpretation and its ratification/ application. It’s in this context that the Office of Legal Counsel (OLC) becomes important. Established in 2003 pursuant to Executive Council Decision EX/CL/Dec.34 (iii) and adopted by the African Union (AU) Assembly of Heads of State and Government vide its decision Assembly/AU/Dec.22. The OLC has a mandate “[T]o provide legal advisory [and] representational services, serve as depository, as well as to ensure legality in decision-making and compliance with the AU Constitutive Act and all existing legal instruments of the AU’.

We are pleased to present this publication in order to enable the readers to appreciate the importance and understand the scope of work of the OLC. We hope to provide more clarifications on this topic considered by some to be quite complex but essential. We hope you’ll enjoy reading it!

* Prof. Vincent O. Nmehielle was the Legal Counsel & Director for Legal Affairs of the African Union Commission until September 30th, 2016.



58 treaties
have been adopted
by the OAU/AU to
date

OLC 2016 program
budget increased to

444%

compared to 2013



6

The OLC on boarded
**Young Legal
Professionals**

for the 2016 Legal Associates
Programme (LAP)

AN OFFICE TO IMPROVE THE DAY-TO-DAY ACTIVITIES OF THE AFRICAN UNION THROUGH LEGAL FRAMEWORK

WHAT DOES THE OFFICE OF LEGAL COUNSEL DO?

Apart from operating as a service Directorate responsible for overall Legal Advisory and Institutional Affairs Services, the OLC has its substantive programmes and activities that are derived from its mandate in omnibus areas that require substantive action on its part particularly in keeping with the evolution of the continental organization and developments in international law.

The programmes and activities of the OLC revolve around implementing decisions of the Assembly and other Policy Organs as well as thematic issues that the office is specifically directed to deal with. The OLC is therefore strategically placed within the Commission to make lasting contributions in the implementation of the AU's vision.

Its objective is to ensure:

1. The legal safety of the Union and
2. To protect the legal interest of the Organization.

The OLC provides a wide spectrum of advisory and representational services and assistance on legal matters affecting the operations and activities of the Organization, in order to strengthen the institutional architecture of the Union, including:

1. Conducting elections into all Organs of the Union.

2. Studying the OAU/AU Specialized Agencies with a view to ensuring synergy.
3. Facilitating the operationalization of the Specialized Technical Committees (STCs)* of the Union.
4. Providing advice on all issues relating to privileges and immunities of the AU, its staff and representatives accredited to the Union as well as experts on mission for the Union.
5. Preparing legal arrangements for and providing advice on legal aspects of African Union's operations and activities.

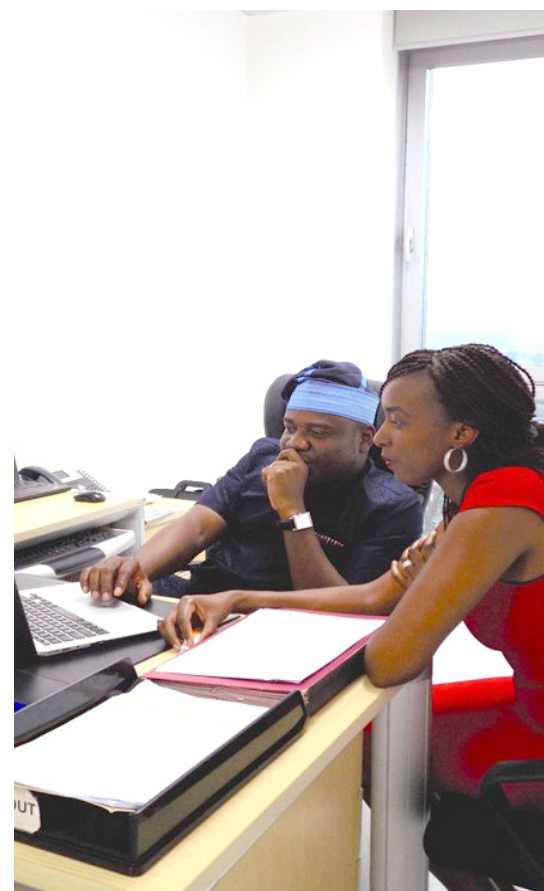
Drafting legal instruments including:

1. Treaties,
2. Bilateral Agreements,
3. Preparing draft rules of procedure and advising AU organs, Specialized Agencies and Institutions; and
4. Organizing Conferences on the conduct of business.

The OLC has also continued to ensure that the Commission's relationship with non-African States and other organizations is done bearing in mind the supreme interest of the Union. In this regard, in accordance with Part II, Section II (3) of the Criteria for Granting Observer Status and for a system of Accreditation within the African Union (the Criteria), adopted by the Executive Council in July 2005, the Commission has continued to

receive and consider requests for accreditation from various non-African States and organizations. To date, the total number of non-African States and international organizations accredited to the Union is one-hundred-six (106) i.e. Eighty-five (85) non-African States and twenty-one (21) Regional Integration and International Organizations.

As such, the OLC plays an important role in overseeing the good applications of Laws governed by the African Union and in the overall corporate governance of the AUC.



** In accordance with the Constitutive Act of the Union and a Decision of the Assembly, STCs replaced Ministerial Conferences and ensure a collaborative and synergistic approach in the work of the various sectorial ministries and Departments of Union Members States.*



OLC MANDATE

The mandate of the OLC is to provide legal advisory and representational services, serve as depository, as well as to ensure legality in decision-making and compliance with the AU Constitutive Act and all existing legal instruments of the AU.

The OLC is a very important facet in the rubric of the AU. Its mandate is to institutionalize the rule of law in the AUC and AU Organs by providing legal advice; representing the AUC and the AU; keeping custody of AU instruments and to make sure that decisions of the AU and its organs meet legal requirements and comply with its constitutive instruments.

- The OLC provides legal advice on cooperation with international or internationalized judicial accountability mechanisms, and legal services for special political missions, peacekeeping operations and other field missions on matters such as diplomatic privileges and immunities, and the legal status of the organization.
- In addition, the OLC is responsible for facilitating elections for all organs of the Union in accordance with the Statute of the African Union Commission and the various Rules of Procedure.

OLC plays a major role within the AU

TOOLS USED: LEGAL INSTRUMENTS

The legal instruments of the African Union refer to the written document agreed upon by Member States such as Treaties, Conventions, Protocols and Charters used to carry out the functions of the Union.

Since the inception of the Organization of African Unity (OAU) in 1963 and the African Union (AU) in 2002, the policy organs of both structures have adopted Fifty-Eight (58) treaties.

1. Thirty-four (34) of these treaties have entered into force.
2. Three (3) additional treaties are in force provisionally in conformity with the provisions of the respective treaties which allow for provisional entry into force., namely:
 - The Constitution of the Association of the African Trade Promotion Organization (1974),
 - The African Maritime Transport Charter (1994), and
 - The Constitution of the African Civil Aviation Commission (revised version) (2009)



Treaty	Date of Adoption	Date of entry into force
OAU Charter, Addis Ababa, 25 May 1963		
General Convention on the Privileges and Immunities of the Organization of African Unity	25-Oct-65	25-Oct-65
Phyto-Sanitary Convention for Africa	13-Sep-67	6-Oct-92
African Convention on the Conservation of Nature and Natural Resources	15-Sep-68	16-Jun-69
African Civil Aviation Commission Constitution	17-Jan-69	15-Mar-72
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	10-Sep-69	20-Jan-74
Constitution of the Association of African Trade Promotion Organizations	18-Jan-74	28-Mar-12
Inter-African Convention Establishing an African Technical Co-operation Programme	1-Aug-75	
Cultural Charter for Africa	5-Jul-76	19-Sep-90
Convention for the Elimination of Mercenarism in Africa	3-Jul-77	22-Apr-85
Additional Protocol to the OAU General Convention on Privileges and immunities	1-Jun-80	
African Charter on Human and Peoples' Rights	1-Jun-81	21-Oct-86
Convention for the Establishment of the African Centre for Fertilizer Development	1-Jul-85	
Agreement for the Establishment of the African Rehabilitation Institute (ARI)	17-Jul-85	2-Dec-91
African Charter on the Rights and Welfare of the Child	1-Jul-90	29-Nov-99
Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa	30-Jan-91	22-Apr-98
Treaty Establishing the African Economic Community,	3-Jun-91	12-May-94
African Maritime Transport Charter	11-Jun-94	
The African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty)	11-Apr-96	15-Jul-09
Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	10-Jun-98	25-Jan-04
OAU Convention on the Prevention and Combating of Terrorism	1-Jul-99	6-Dec-02
Constitutive Act of the African Union	7-Nov-00	26-May-01
Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament	2-Mar-01	14-Dec-03
Convention of the African Energy Commission	11-Jul-01	13-Dec-06
Protocol Relating to the Establishment of the Peace and Security Council of the African Union	9-Jul-02	26-Dec-03
African Union Convention on Preventing and Combating Corruption	1-Jul-03	5-Aug-06
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	1-Jul-03	25-Nov-05
Protocol of the Court of Justice of the African Union	1-Jul-03	11-Feb-09
African Convention on the Conservation of Nature and Natural Resources (Revised Version)	1-Jul-03	
Protocol on Amendments to the Constitutive Act of the African Union	11-Jul-03	
Protocol to the OAU Convention on the Prevention and Combating of Terrorism	1-Jul-04	
The African Union Non-Aggression and Common Defence Pact	1-Jan-05	18-Dec-09
Charter for African Cultural Renaissance	24-Jan-06	
African Youth Charter	2-Jul-06	8-Aug-09
African Charter on Democracy, Elections and Governance	30-Jan-07	15-Feb-12
Protocol on the Statute of the African Court of Justice and Human Rights	1-Jul-08	
Statute of the African Union Commission on International Law	4-Feb-09	4-Feb-09
African Charter on Statistics	4-Feb-09	
Protocol on the African Investment Bank	30-Jun-09	
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)	23-Oct-09	6-Dec-12
Revised Constitution of the African Civil Aviation Commission	16-Dec-09	11-May-10
Revised African Maritime Transport Charter	26-Jul-10	
African Charter on Values and Principles of Public Service and Administration	31-Jan-11	
Agreement for the Establishment of the African Risk Capacity (ARC) Agency	23-Nov-12	
African Union Convention on Cyber Security and Personal Data Protection	27-Jun-14	
Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights	27-Jun-14	
Protocol on the Establishment of the African Monetary Fund	27-Jun-14	
African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development	27-Jun-14	
Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament	27-Jun-14	
African Union Convention on Cross-Border Cooperation (Niamey Convention)	27-Jun-14	
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa	31-Jan-16	



AU'S RATIFICATION AND IMPLEMENTATION OF TREA-

As the custodian of OAU/AU treaties and as the Directorate that assists the Chairperson in the performance of the depositary functions, the OLC is vigorously engaged in accelerating the ratification/accession of the fifty four (54) treaties that have been adopted by the OAU/AU to date.

The Union has made great and often times novel strides in the codification of international law. However, the fruit of such elaborate codification is in the ratification and implementation of such treaties. Thus, the promotion of signature, ratification/accession of OAU/AU treaties is an essential part of the mandate of the Commission generally and the OLC in particular. The OLC spends enormous resources in organizing signature and ratification/accession drives and initiatives. This includes Participation in meetings of the Regional Economic Communities to promote signature and ratification of treaties and organizing Treaty Signing and Ratification/Accession Week.

Challenges Faced

A major challenge in the implementation of OAU/AU Treaties is the slow pace of ratification or accession and implementation of OAU/AU Treaties.

Other challenges to address are the lack of political commitment, administrative red tape, lack of required administrative coordination and technical capacity; and the strategies to encourage Member States to organize political consultation and debates within the regional domestic spheres to determine both the feasibility and desirability of harmonizing the constitutional approaches and legislative procedures and practices for ratification of OAU/AU Treaties

Recommendations

1. The Executive Council adopted the Rules of Procedure of the AU Ministerial Committee on the Challenges of Ratification and Implementation of the

OAU/AU Treaties. Rule 4 of the said Rules of Procedure provides indicates that National Sectorial Committees may be established in every Member State, which, shall liaise with various Ministries at the national level inter alias to facilitate the implementation of national policies and decisions related to the ratification of OAU/AU Treaties.

2. The incoming Commission should give utmost priority to the signing, ratification/accession and implementation to all treaties adopted under the aegis of the OAU/AU, which will address issues of specific concern to African integration towards the attainment of Agenda 2063.

SUPPORTING AND SYNERGIZING AU'S LEGAL STRUCTURES IN PROMOTING GOOD GOVERNANCE PRACTICES IN AFRICA



The African Union has set up a number of organs on the basis of Article 5 (2) of the Constitutive Act of the African Union whose main functions are to carry out specific legal functions and to ensure better governance of policies within the African Continent. Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, independent judiciary and an impartial and incorruptible police force.

THE AU COMMISSION ON INTERNATIONAL LAW (AUCIL)

The African Union Commission on International Law (AUCIL) was established as an advisory organ of the Union. The AUCIL was created at a time when the African continent was envisaging increased commitment to the process of accelerating the integration of the continent, and acknowledging the role of law, particularly international law, in that endeavor. To this end, it was established to contribute to

the codification and progressive development of international law in the African continent. The AUCIL promotes the progressive development of the international law in Africa and its codification.

In implementing its mandate and achieving its mission, "to be an efficient legal advisory organ of the African Union, contributing to the African integration agenda and to the

objectives and principles of the Union, and devoted to promote the interests of the African continent in the world, through progressive development and codification of international law in the continent", AUCIL undertakes a number of programmes and activities such as carrying out research, drafting legal framework agreements, preparing legal opinion, organizing seminars, conferences and training programmes.

In addition, the AUCIL consults with intergovernmental, international and national organization such as the International Committee of the Red Cross, Inter American Juridical Committee on variety of subjects. More specifically, the AUCIL works in close collaboration with the United Nations International Law Commission in order to promote international law on the African continent.

Objectives:

- To undertake activities relating to codification and progressive development of international

law in the African continent with particular attention to the laws of the Union as embodied in the treaties of the Union, in the decisions of the policy organs of the Union and in African customary international law arising from the practice of Member States;

- To propose draft framework agreements, model regulations, formulations and analyses of emerging trends in States' practice to facilitate the codification and progressive development of international law;
- To assist in the revision of

existing treaties, assist in the identification of areas in which new treaties are required and prepare drafts thereof;

- To conduct studies on legal matters of interest to the Union and its Member States; and
- To encourage the teaching, study, publication and dissemination of literature on international law in particular the laws of the Union with a view to promoting acceptance of and respect for the principles of international law, the peaceful resolution of conflicts, respect for the Union and recourse to its Organs, when necessary.

THE AU AND THE INTERNATIONAL CRIMINAL COURT (ICC)

The International Criminal Court (ICC) was established by a multilateral treaty – the Rome Statute of the International Criminal Court – which was adopted by a diplomatic conference in 1998 and which came into force in July 2002. The ICC is an independent judicial institution entrusted with a mission “to investigate, prosecute and try individuals accused of [...] the crime of genocide, crimes against humanity, war crimes” and, since the 2010 revision (subject to ratification after 2017) “the crime of aggression” (i.e. military violation of the sovereignty of a State by another State). Unlike the ad hoc international criminal tribunals created by the United Nations Security Council (the International Criminal Tribunals for the former Yugoslavia and the International Criminal Tribunal for Rwanda), the ICC is not an organ of the United Nations although it has a cooperation agreement with the United Nations. As of May 2009, there are one hundred and twenty three (123) States that are parties to the Rome Statute, 34 of which are African States thereby making Africa the largest regional grouping of States parties.

The Court has sat since 2002 and investigated 10 cases, nine of which are located in Africa: Lybia, Sudan, the Democratic Republic of the Congo (DRC), Uganda, Central African Republic (CAR). Kenya, Lybia, Côte d'Ivoire and Mali. In addition, Guinea and Nigeria are under preliminary

examinations.

This list could give the impression that sub-Saharan Africa is the only region where “the most serious crimes of concern to the international community” are committed, and this has led the African Union (AU) to become very critical of the functioning of the ICC. Consequently, the Assembly has been seized with issues relating to the ICC since 2009 to date and has since established the Open ended Committee of Ministers of Foreign Affairs on the International Criminal Court during its Twenty Fifth Ordinary Session held in Johannesburg, South Africa in June 2015 pursuant to Decision Assembly/AU/Dec. 586 (XXV) to update of the Commission on the Implementation of Previous Decisions on the ICC.

Past and Current Cases

To date, four African States Parties to the Rome Statute – Uganda, the Democratic Republic of the Congo, the Central African Republic and Mali – have referred situations occurring on their territories to the Court. In addition, the Security Council has referred the situation in Darfur, Sudan, and the situation in Lybia – both non-States Parties. After a thorough analysis of available information, the Prosecutor has opened and is conducting investigations in all of the above-mentioned situations. On 31 March 2010, Pre-Trial Chamber II granted the Prosecution authorisation

to open an investigation proprio motu in the situation of Kenya. In addition, on 3 October 2011, Pre-Trial Chamber III granted the Prosecutor's request for authorisation to open investigations proprio motu into the situation in Côte d'Ivoire.

However since July 2008, the AU Policy Organs have principally been seized with respect to the situations in the Sudan and Kenya as they related to the proceedings initiated against the two (2) sitting Heads of State and Government of the Sudan and Kenya, and the Deputy President of Kenya. Although, the Assembly took a decision regarding the situation in Lybia, this was overtaken by events due to the demise of the former Leader – Muammar Gadhafi.

AU Achievements

Due to the concerted efforts of the AU (both political and legal) of which the OLC played a crucial role, the proceedings against the President and Deputy President of Kenya have since been suspended by the ICC. However, the proceedings against the President of the Sudan including a subsisting arrest warrant are still pending. The Assembly has severally called for the proceedings against President Bashir to be deferred or referral to be withdrawn, neither of which has received a favourable response from the UN Security Council.

AFRICAN COURT OF HUMAN RIGHTS AND PEOPLE

The African Court on Human and Peoples' Rights (the Court) is a continental court established by Member States of the African Union to ensure the protection of human and peoples' rights in Africa. The Court was established by virtue of Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol)), which was adopted in June 1998 by the Organization of African Unity members in Ouagadougou, Burkina Faso. The Protocol came into force on 25 January 2004, 30 days after it had been ratified by 15 Member States. In fact, the African Charter on Human and Peoples' Rights, which is the main African human rights instrument that sets out the rights and duties relating to human and peoples' rights in Africa, provides a framework within which

the African Court on Human and Peoples' Rights was created. The Court has its permanent seat in Arusha, the United Republic of Tanzania.

Mandate

The mandate of the Court is to complement and reinforce the functions of the African Commission on Human and Peoples' Rights (the African Commission – often referred to as the Banjul Commission), which is a quasi-judicial body charged with monitoring the implementation of the Charter.

The African Court on Human and Peoples' Rights was established to complement and reinforce the functions of the African Commission on Human and Peoples' Rights (the African Commission – often referred to as the Banjul Commission), which

is a quasi-judicial body charged with monitoring the implementation of the Charter.

Mission

The Mission of the Court is to enhance the protective mandate of the African Commission on Human and Peoples' Rights by strengthening the human rights protection system in Africa and ensuring respect for and compliance with the African Charter on Human and Peoples' Rights, as well as other international human rights instruments, through judicial decisions.

Vision

The vision of the Court is an Africa with a viable human rights culture.



THE AU COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

In July 1979, the OAU Assembly adopted a resolution calling on its Secretary-General to form a committee of experts to draft an African Charter on Human and Peoples' Rights providing, among other things, mechanisms to promote and protect the rights embodied in the Charter. The group's draft was unanimously adopted at a 1981 meeting of the OAU Heads of State and Government in Nairobi, Kenya, and the Charter came into force on 21 October 1986. The Charter provided for a Human Rights Commission to be established within the OAU.

The Commission of Human Right and People was officially inaugurated on November 2ND, 1987 in Addis Ababa, Ethiopia, after its members had been elected in July of the same year by the OAU 23rd Assembly of Heads of State and Government.

The Commission did not have a permanent Secretariat after its

inauguration and thus, for its first five sessions, its activities were coordinated from the OAU General Secretariat in Addis Ababa. The Secretariat which is also the Headquarters of the Commission, is located in Banjul, The Gambia, and was officially inaugurated by His Excellency, Sir Dawda Kairaba Jawara, former Head of State of the Gambia, on Monday 12 June 1989.

The Commission elects its Chairman and Vice-Chairman. It meets twice a year – usually in March or April and in October or November. The sessions usually last for ten days, but are likely to increase as the workload of the Commission increases.

Mandate

- Promotion of human and peoples' rights
- Protection of human and peoples' rights
- Interpretation of the provisions of the Charter;

- Performance of any other tasks which may be entrusted to it by the Assembly of Heads of State and Government of the AU

Mission

To promote, monitor and protect the human and peoples' rights guaranteed in the African Charter

Vision

An Africa characterised by respect for and observance of human rights, where the rights guaranteed under the Charter are known and advocated for by African people; and promoted, protected, respected and fulfilled by the State Parties.

AU ADVISORY BOARD ON CORRUPTION

The African Union Advisory Board on Corruption is an autonomous organ established within the African Union (AU). The AU Advisory Board was established in May 2009 as part of the African Union Convention on Preventing and Combating Corruption, which entered into force in August 2006.

Mandate

The main mandate of the Board is to promote and encourage the adoption of measures and actions by State Parties to prevent, detect, punish and eradicate corruption and related offences in Africa as well as to follow-up on the application of those measures and submit a report to the Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of the Convention.

Mission

The mission of the AU-ABC, which has clearly been stated out in Article 22 (5) of the Convention, is to:

- Promote and encourage adoption and application of anti-corruption measures on the continent;
- Collect and document information on the nature and scope of corruption and related offences in Africa;
- Develop methodologies for analyzing the nature and extent of corruption in Africa, and disseminate information and sensitize the public on the negative effects of corruption and related offences;
- Advise governments on how to deal with the scourge of corruption and related offences in their domestic jurisdictions;
- Collect information and analyze the conduct and behavior of multi-national corporations operating in Africa and disseminate such information to national authorities designated under Article 18 (1) of the Convention hereof;
- Develop and promote the adoption of harmonized codes of conduct of public officials;
- Build partnerships with the African Commission on Human and People's Rights, African civil Society, governmental, Intergovernmental and non-governmental organizations to facilitate dialogue in the fight against corruption and related offences;
- Submit a report to Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of this Convention;
- Perform any other task relating to corruption and related offences that may be assigned to it by the policy organs of the African Union.

Vision

This vision is to be, by 2015, "an efficient organization that provides pertinent support to Member States in the sustainable implementation of the AU Convention and the fight against corruption in Africa".

PROMOTING LEGAL FRAMEWORKS THROUGH CAPACITY BUILDING AND TRAINING PROGRAMS



The OLC is currently partnering with different institutions and international organizations around the world to promote the African Union's work in the Legal Field. To this end, numerous capacity development and training programs have been developed to better equip African Legal professionals.

Loyola Program: Capacity Development of Internal Staff	Capacity Development of Member States Lawyers on Treaties Drafting	Legal Associates Program
<p>Program Description: The OLC in collaboration with Loyola University Chicago offers young professionals a one (1) year scholarship to study a Master of Rule of Law for Development (LLM) at the Loyola University Chicago's John Felice Rome Center in Italy.</p>	<p>Program Description: The OLC has designed a Training programme for Legal advisers of governments of Member States of the AU, in particular, those working within the Ministries of Justice and Foreign Affairs of the respective States who, given their involvement in discussions and negotiations of national and international policies, will develop their drafting skills which are necessary in transposing policies into law and subsequently monitoring their implementation.</p> <p>Their participation in the training will also ensure greater consistency and uniformity in the implementation of international law by States, particularly OAU/AU treaties, as well as in the enactment of recommended Model Laws of the Union.</p>	<p>Program Description: The OLC has designed an Africa-wide legal capacity development initiative known as the Legal Associates Programme (LAP). The essence of the LAP is to provide and to inculcate professional legal expertise in young African lawyers in the area of African integration law as represented by ideals and programmes and activities of the AUC, other Organs, Institutions and Agencies of the AU.</p> <p>AU treaties provide the basis for collective action and solutions in addressing the political, economic and social challenges that impede Africa's integration and development. As such the LAP will help to emphasize the role of treaty law in development, provide technical backstopping to enhance the signature, ratification, domestication and implementation of AU treaties, with the ultimate aim of enhancing the continental integration agenda.</p>
<p>Target Audience: Young professionals within</p> <ul style="list-style-type: none"> ➤ The African Union (AU) and its Organs ➤ AU Member States, and ➤ The Regional Economic Communities (RECs). 	<p>Target Audience:</p> <ul style="list-style-type: none"> ➤ Legal staff within the Office of the Legal Counsel (OLC) of the AUC. ➤ Legal advisers from the fifty-four (54) Member States of the African Union to the Organization 	<p>Target Audience : Young African lawyers (two from each AU region in equal gender distribution) aged between 25 and 30</p>
<p>Objective:</p> <ul style="list-style-type: none"> ➤ To develop African leaders to advance social justice across the globe, through effective, sustainable governance and rule of law reform. 	<p>Objective:</p> <ul style="list-style-type: none"> ➤ To build the capacity of the African Union and its Member States in the area of legal drafting and implementation. ➤ Increase efficiency of legal advisers in drafting legal instruments that are not only fit for purpose, but also more concise and simpler for achieving higher rates of implementation by their target audience. 	<p>Objective:</p> <ul style="list-style-type: none"> ➤ To monitor the signature, ratification, domestication and implementation of AU treaties ➤ To develop and strengthen the AU treaty database, revision of AU treaties and work on projects to enhance the ratification and implementation of AU treaties; ➤ To provide an opportunity for the development of professional legal expertise in young African lawyers in the area of treaty law and management ➤ To engage in other legal work as represented by the ideals, programmes and activities of the AUC and other Organs, Agencies and Institutions of the AU
<p>Expected Outcomes:</p> <ul style="list-style-type: none"> ➤ African Law Professionals will return to their home countries or respective organizations to assume the task of strengthening governance and the rule of law. ➤ In addition, Loyola will implement bi-annual, complementary seminars and workshops at the AU headquarters in Addis Ababa, Ethiopia, to further the development of AU staff. 	<p>Expected Outcomes:</p> <ul style="list-style-type: none"> ➤ Understanding of the principles of legal drafting ➤ Recognition of the importance of clear and concise drafting in different types of legal documents targeted at different audiences ➤ Application of general and specific rules of drafting ➤ Recognition and application of rules of interpretation to treaties and other international agreements ➤ Recognition of areas where drafting is usually susceptible to disputes ➤ Identify the desires of policy makers and convey same in legal texts ➤ Dispense with the use of unnecessary legal jargon ➤ Improvement of poorly drafted existing legal text 	<p>Expected Outcomes:</p> <ul style="list-style-type: none"> ➤ Gain experience in the continental-wide AU System ➤ Equip young African Lawyers in dealing with the challenges of ratification, domestication and implementation of AU treaties; ➤ Raising the next crop of African legal armies that are equipped to understand common African legal positions and provide professional service in that regard to both the AUC, the Regional Economic Communities (RECs) and AU member states.

FIGHTING AGAINST IMPUNITY



The African Union has a political and social responsibility to fight against Impunity and as such, the OLC has established international criminal justice frameworks to prosecute perpetrators of crimes against humanity. In doing so, it is promoting the development of African and International jurisprudence on the principle of universal jurisdiction. Furthermore, the establishment of the African Union Commission of Inquiry in South Sudan and the recently concluded trial of Hissene Habre at the African Extraordinary Chambers; clearly indicate that the AU is taking concrete steps to uphold the aspirations of Agenda 2063, specifically, Aspiration Three, which calls for “An Africa of good governance, democracy, respect for human rights, justice and the rule of law is entrenched”.

AFRICAN EXTRAORDINARY CHAMBERS (AEC) FOR HISSEIN HABRE'S JUDGMENT IN SENEGAL

The Assembly of the Union decided vide Assembly/AU/Dec.3 to set up a Committee of Eminent African Jurists which was mandated to consider all aspects and implications of the Hissène Habré Case as well as the options available for his trial.

In accordance with the Statute of the AECs and an agreement signed in 2012 between the African Union and the Republic of Senegal, the African Extraordinary Chambers is located within the judicial system of Senegal but also has an international criminal justice character. On behalf of the Chairperson of the Commission, the OLC chairs the Steering Committee on the Funding of the AECs, which meets quarterly in Dakar, Senegal, the seat of the AECs. The Steering Committee oversees funding issues and makes sure that the AECs work progresses in accordance with budgetary considerations.

The Committee made concrete recommendations thereon as well as on

ways and means of dealing with issues of a similar nature in the future and submitted a report to the Ordinary Session of the Assembly held in Banjul, the Gambian in July 2006.

Among the various countries recommended to try Hissène Habré, Senegal was selected as one of the country best suited to try Hissène Habré as it is bound by international law to perform its obligations. This recommendation was endorsed by the Assembly and accepted by Senegal.

Achievements:

Among the achievements, will recall the signed Agreement between the African Union and the Government of the Republic of Senegal on 22 August 2012 for the establishment of the African Extraordinary Chamber (AEC) in the Courts of Senegal to prosecute person (s) most responsible for international crimes committed in Chad between 1982 and 1990.

Following the signing of this Agreement, the Commission organized the trial of Mr. Habré, in application of various decisions of the Assembly.

Among other achievements, it will be recalled the operationalization of the African Extraordinary African Chamber, the appointment of Prosecutors and Judges by the Commission of the AU, placement in custody of Mr. Habré since July 2, 2013, for war crimes, crimes against humanity and the crime of torture. On 6 March 2015, the Commission appointed the President of the Chamber of Assize and his three (3) Assessors. Organization by the Commission of the meetings of the Steering Committees on the Hissène Habré. The Court ended in sentencing Mr. Habré to Life imprisonment for war crimes, crimes against humanity and the crime of torture committed in Chad.

HYBRID COURT FOR SOUTH SUDAN (HCSS)

The OLC coordinated the establishment of the African Union Commission of Inquiry on South Sudan (AUCISS) as well as acted as its secretariat. The mandate of the AUCISS was to "investigate the human rights violations and other abuses committed during the armed conflict in South Sudan and make recommendations on the best ways and means to ensure accountability, reconciliation and healing among all South Sudanese communities. It has been acknowledged that the AUCISS was the first mechanism of its kind to be established under the auspices of the OAU/AU to have achieved its mandate fully to the awe and admiration of all including the international community. The lessons learnt from this exercise will go a long way in ensuring coherence, effectiveness and efficiency in establishing similar mechanisms in future.

In view of the above, the African Union Peace and Security Council (AUPSC) at its 547th Session met at the level of Heads of State and Government in New York on 26 September 2015 on the issues related to accountability, agreed with the recommendations of the AUCISS on:

"... the establishment by the AU Commission of an independent hybrid judicial court, the Hybrid Court of South Sudan (HCSS), in accordance with Chapter V (3.1.1) of the Agreement on the Resolution of the Conflict in South Sudan (ARCISS), reached by the South Sudanese parties, as an African-led and Africa-owned legal mechanism, to investigate and prosecute individuals bearing the responsibility for violations of international law and/or applicable South Sudanese law committed from 15 De-

cember 2013 through the end of the Transitional Period".

Accordingly, the Chairperson of the AUC, in implementing the foregoing recommendation and AUPSC Communique mandated the Office of Legal Counsel (OLC) as the focal department of the AUC on international criminal justice issues to coordinate the process towards the establishment of the HCSS in cooperation with all relevant Organs, Departments, Peace Support Missions and Specialized, Technical or Liaison Offices of the Union. In implementing this mandate, on 24 March 2016, the OLC constituted an inter-departmental taskforce to act as the focal group working on the operationalization of the establishment of the Hybrid Court an African led and owned rule of law initiative.



Since your arrival, what were the major changes in the Office of the Legal Counsel?

The OLC has in my tenure, improved in the work process with optimized service delivery to the relevant AU organs and offices, increased capacity and number of staff by introducing the flagship Legal Associate Programme to train young African legal professionals. The OLC has promoted signature and ratification of treaties through sensitizing Member States with the need to establish National Sectorial Committees which act at the national focal point to transmit information to the Ministerial Committee on the efforts made by each Member State in relation to the signature, ratification/accession and implementation of OAU/AU treaties and the challenges faced to accelerate the ratification issues. Since 2014, the OLC has undertaken visits to Zambia, Cameroon, Angola and Senegal and as a result, the rise in signature and ratification of OAU/AU is a testament to this effort. Additionally, the OLC has significantly contributed to the development of contemporary

international law, evidenced by the conclusion of the Hissene Habre trial, coordinating the 2050 Africa Integrated Maritime Strategy and establishment of the African Union Commission of Inquiry on South Sudan (AUCISS) and the Hybrid Court of South Sudan.

What are the main lessons learned throughout the years you spent as the head of this office?

The main lesson is that the integration of the continent has been accelerated with the work of the African Union. It is clear, we have much work to do in the area of integration and ownership of the initiatives by the African Union. The inclusion of young African professionals is a critical addition to the work of the office and the initiative we have started has shown me that the future of African Integration lies with young professionals and in our ability to give them an opportunity to participate in this process and lead the way in making it a reality.

"It is clear, we have much work to do in the area of integration and ownership of the initiatives by the African Union."



“The organizational structure of the OLC needs to be urgently revised so it can keep on delivering on its mandate..”

What are the biggest challenges this office is facing today and will likely face in the future?

The major and perennial challenge faced by the OLC is the lack of adequate human resources, in spite of the huge and increasing mandate of the Department. This has a potential to overwork OLC staff with no compensation thereby leading to diminished productivity. In addition, OLC is one of the only Departments that is not broken down into Divisions in spite of the different specializations that exist in the legal profession and for which the Department is required to offer legal services on.

Looking ahead, what are your recommendations?

The organizational structure of the OLC needs to be urgently revised for it to continue to effectively deliver on its mandate. In this regard, the ongoing restructuring process should be finalized as soon as possible so as to create needed synergy with the work of other Offices, Departments, Organs and Institutions of the Union. It is expected that with establishment of Divisions in the OLC, with it will come the recruitment of requisite expertise to support the work of the Office.



2016 LEGAL ASSOCIATE PROFILES



Gilles Landry Dossan is an Ivorian lawyer specialized in international law. Prior to joining the OLC, he worked as a law lecturer in France and UK. He is currently preparing a PhD in international law and international relations, his thesis focuses on the participation of non-states actors in regional integration processes. He published a book and several articles in the field of international law and is a researcher at the Center of International law and the Center for European Studies of the University of Lyon 3, France. His work experience involves organizations like UNECA, human rights organizations and private foundations.



Koat Aleer is specialized in International Law having gained experience from her extensive work with the Ministry of Foreign Affairs and International Cooperation of South Sudan, the Human Rights Institute of the International Bar Association, African Prisons Project and the United Nations Dispute Tribunal. She comes with a legal background having completed an LLB and LLM from Leeds University and Undergraduate studies from the University of Toronto.



Nokukhanya Mkhize completed her Clerkship with Bowman Gilfillan Africa Group (BGAG) and continued on as an Associate specializing in Corporate Employment Law. She undertook further studies and attained an LLM from Loyola University of Chicago in Rule of Law for Development. Before joining the AUC, she was an Associate Research Consultant at the International Development Law Organisation (IDLO) in Rome, Italy and the Hague, Netherlands.



Damsou Kinde is a Jurist with specialization in International Cooperation and Development. He graduated in Public Law from the University Abdelmalek Essaadi of Tangier, Morocco. He also studied International Crime and Justice from the United Nations Interregional Crime and Justice Research Institute (UNICRI) in Turin, Italy. Damsou is currently a PhD Candidate in International Development at the University Institute of International Development. Before joining AUC, Damsou worked as a Lecturer of Legal Sciences in several Universities in Chad and he has also experiences in the Private and Public Sectors.



Joan Obiero is an Advocate of the High Court of Kenya. She completed her undergraduate studies at the University of Nairobi. Joan also has a Masters in Information Communication Technology Law from the University of South Africa. She is an experienced Advocate who has taken on diverse roles in private companies and institutions as in-house counsel, practised as a Civil Litigation Advocate primarily in commercial law matters and lectured on various areas of law including constitutional law, professional ethics and contract law.



Lami Omale previously worked as a Junior Lawyer with the Nigerian National Petroleum Commission and has several years of experience working in the UK public sector. She is a Member of the Nigerian Bar Association and holds a Bachelor of Laws (LL.B Hons) from University of the West of England, Bristol and a Master of Laws (LL.M) in Public International Law from Leiden University, Netherlands.



On behalf of the staff of the Office of the Legal Counsel, as we bid farewell to Prof. Vincent O. Nmehielle after nearly three years of dedicated service to the Union, we would like to say that we are grateful for your leadership and support, which has been the bedrock of the Office of the Legal Counsel of the AUC. Thank you for always making yourself directly accessible to us, for your tutelage, motivating style of leadership and for providing us with the opportunity to take part in this invaluable experience. The African Development Bank has no doubt gained one of the best minds of the African Union Commission. We wish you all the best in your new role.

With the greatest respect,

The OLC Team



www.au.int

African Union Headquarters

P.O. Box 3243
Roosevelt Street (Old Airport Area)
W21K19
Addis Ababa, Ethiopia
Tel: (251) 11 551 77 00
Fax: (251) 11 551 78 44
ahrm@africa-union.org