

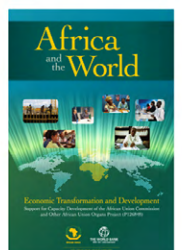


*Transforming the African Union
to drive the Africa we want.*



Case study seven:

Ensuring the protection of Human and People's Rights in Africa



CONTENT



5 Key figures	6 A Body to protect the African Citizen	10 A vision of an Africa with a viable Human Rights Culture	14 Modern tools to better assist the African Citizen
16 A Capacity Building Program to meet the real needs of the African Citizen	18 A Learning and Listening approach to get closer to the African Citizen	20 Dedicated Judges to serve the African Citizen	22 President and Vice-President's insights



EDITORIAL

Dr Robert Eno
Registrar
African Court
for Human and Peoples Rights

"To deny people their human rights is to challenge their very humanity". It is with this quotation of Nelson Mandela that I would like to introduce the subject presented in this publication.

Aware that human rights are at the core of each and every individual's welfare, our founding fathers created the African Court on Human and Peoples' Rights ten years ago. With its mandate to serve the African citizen, the African Union attempts to foster dignity, freedom, equality, justice and peace among the people of this continent.

As this year of commemoration comes to an end, it is time to take stock of the progress made in ten years, and identify any possible gaps. What is Africa's situation in relation to human rights today? What are the major steps forward and the main challenges in this regard? What does the African Court mean to the African people in practice? After this breakthrough, what is the next step?

This publication intends to offer a better insight into what the African Court has been doing over the last decade. It doesn't claim to answer all the questions that may arise regarding this body, but serves as an essential source of information to understand how important the rights of Africa's citizen is to the African Union.



A BODY TO PROTECT THE AFRICAN CITIZEN

The African Court on Human and Peoples’ Rights (the Court) is a continental court established by African countries to ensure the protection of human and peoples’ rights in Africa. It complements and reinforces the functions of the African Commission on Human and Peoples’ Rights.

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 by Member States of the then Organization of African Unity (OAU) in Ouagadougou, Burkina Faso, in June 1998. The Protocol came into force on 25 January 2004.

The Court has jurisdiction over all cases and disputes submitted to it

concerning the interpretation and application of the African Charter on Human and Peoples’ Rights, (the Charter), the Protocol and any other relevant human rights instrument ratified by the States concerned. Specifically, the Court has two types of jurisdiction: contentious and advisory.

10 years anniversary

The African Court on Human and Peoples’ Rights celebrates its 10th anniversary this year. Various activities were organized to celebrate this event, such as the symposium in which human rights stakeholders in Africa acknowledged the entity’s main achievements, as well as the fifth annual High-level Dialogue on Democracy, Human Rights and Governance in Africa.

This celebration also coincides with the 35th anniversary of the adoption of the African Charter on Human Rights, and with the 30th anniversary of its implementation.

VISION

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



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.

ACHIEVEMENTS

Up to now, 119 contentious applications and 12 requests for advisory opinion have been brought before the Court. However, 87 of these contentious matters are still pending. The Protocol to the African Charter on Human and Peoples’ rights is now ratified by 30 Member States, with Chad being the last country ratifying it during the last African Union Summit.

AFRICAN COURT’S FIRST CASE:

The first case presented to the Court was submitted on August 11, 2008 by Mr. Michelot Yogogombaye. Of Chadian origin, he appealed for the Republic of Senegal to suspend its proceedings aimed at charging, trying and sentencing Mr. Hissein Habré, former Chad’s Head of State and asylumed in Senegal.

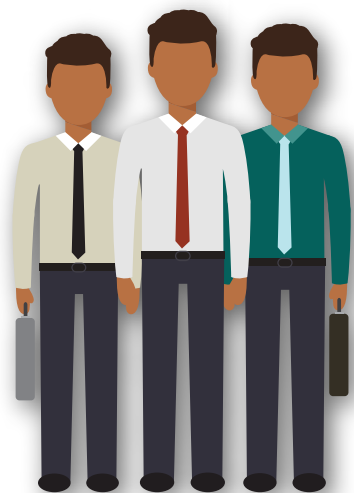
On December 15, 2009, the Court decided that it has no jurisdiction to hear the case initiated by Mr. Yogogombaye against Senegal.

LIST OF COUNTRIES WHICH HAVE SIGNED, RATIFIED/ACCEDED TO THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES’RIGHTS

COUNTRY/PAYS	DATE OF/DE SIGNATURE	DATE OF/DE RATIFICATION/ ACCESSION	DATE DEPOSITED/ DATE DE DEPOT
Algeria	13/07/1999	22/04/2003	03/06/2003
Burkina Faso	09/06/1998	31/12/1998	23/02/1999
Burundi	09/06/1998	02/04/2003	12/05/2003
Côte d’Ivoire	09/06/1998	07/01/2003	21/03/2003
Comoros	09/06/1998	23/12/2003	26/12/2003
Congo	09/06/1998	10/08/2010	06/10/2010
Gabon	09/06/1998	14/08/2000	29/06/2004
Gambia	09/06/1998	30/06/1999	15/10/1999
Ghana	09/06/1998	25/08/2004	16/08/2005
Kenya	07/07/2003	04/02/2004	18/02/2005
Libya	09/06/1998	19/11/2003	08/12/2003
Lesotho	29/10/1999	28/10/2003	23/12/2003
Mali	09/06/1998	10/05/2000	20/06/2000
Malawi	09/06/1998	09/09/2008	09/10/2008
Mozambique	23/05/2003	17/07/2004	20/07/2004
Mauritania	22/03/1999	19/05/2005	14/12/2005
Mauritius	09/06/1998	03/03/2003	24/03/2003
Nigeria	09/06/2004	20/05/2004	09/06/2004
Niger	09/06/1998	17/05/2004	26/06/2004
Rwanda	09/06/1998	05/05/2003	06/05/2003
South Africa	09/06/1999	03/07/2002	03/07/2002
Sahrawi Arab Democratic Republic	25/07/2010	27/11/2013	27/01/2014
Senegal	09/06/1998	29/09/1998	30/10/1998
Tanzania	09/06/1998	07/02/2006	10/02/2006
Togo	09/06/1998	23/06/2003	06/07/2003
Tunisia	09/06/1998	21/08/2007	05/10/2007
Uganda	01/02/2001	16/02/2001	06/06/2001

Who can appeal to the African Court?

1. The African Commission on Human and Peoples' Rights
2. A State party to the Court's Protocol against which the complaint has been lodged at the Commission
3. A State party to the Court's Protocol whose citizen is a victim of a human rights violation
4. African Intergovernmental Organisations
5. State parties to the Court's Protocol with an interest in a case may be permitted by the Court to join the proceedings
6. Relevant non-governmental organisations (NGOs) with Observer Status before the Commission, and individuals can institute cases directly before the Court, if the State party from which they come from has made a declaration allowing such direct applications.



When to appeal to the African Court?

When you have exhausted the various national judicial bodies and are not satisfied with the judgment



Where is the African Court?

Arusha, Tanzania

How to file a complaint?

1. Cases shall be submitted by post, email, fax or courier to the Registrar, in terms of Rule 25 and Rule 34, at the seat of the Court, in Arusha, Tanzania.
2. The Registrar has custody of the seal and official stamp of the Court with which to officially acknowledge receipt of any case submitted. The term "Registrar" here is used in its widest meaning: that of the registry "Office" rather than the person or officer. For in the absence of the person, the office will continue to function.
3. One has to send to the Court's Registry a signed application written in one of the Court's official languages.



What should be provided?

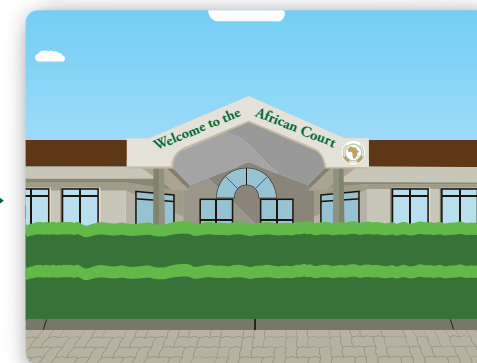
For applications by individuals and NGOs, the application must:

1. Disclose the identity of the applicant, even where the applicant has requested anonymity;
2. Comply with the Constitutive Act of the African Union and the Charter;
3. Not contain any disparaging or insulting language;
4. Not be based exclusively on news disseminated through the mass media;
5. Be filed after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. Be filed within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter;
7. Not raise any matter or issues previously settled by the parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union.



How long does it take to process a case?

The Court gives its judgment within ninety (90) days of having completed its deliberations. Its judgment is final and not subject to appeal. However, in light of new evidence, which was not within the knowledge of a party at the time the judgment was delivered, a party may apply for review of the judgment. This application must be within six months after that party acquired knowledge of the evidence discovered. The Court may also interpret its own decision.



A VISION OF AN AFRICA WITH A RELEVANT HUMAN RIGHTS CULTURE

In order to achieve its vision, the institution has developed a strategy aimed at strengthening its capacity for the next five years following the African Court’s Strategy in 2015. It includes four objectives:

Enhanced Judicial Procedure

- Respect for human rights, good governance and the rule of law are critical drivers of sustainable peace and development in Africa.
- The Court has an important role to play in embedding the respect for human rights and the integration into the AU’s programs and policies, hence the need to address key gaps and challenges in the delivery of the Court’s judicial mandate

Outreach and Cooperation

- Address the lack of awareness of the existence and activities of the Court, improve access to the Court and provide shed light on how to litigate before it.
- Address the misconception that ratification of the Protocol and making of the declaration would result in an avalanche of cases against states.
- Strengthen the Court’s relationship with other external stakeholders

Development of Institutional Capacity

- Provide the Court with the necessary structure to strengthen Institutional capacity by improving and strengthening the processes related to governance, organizational systems and procedures, capacity development and equipment.
- The capacity development framework will be implemented to guide the Court in identifying required competencies and linkages required to implement the plan

Sustainable Financing

- The bulk of the Court’s funding is from the AU. This presents sustainability challenges as the Internal policy and operational standards have often limited the Court’s budgetary allocation. Funds from development partners are erratic and often limited to specific programs
- There is a need for the Court to implement strategies to deepen and broaden its funding sources

Five critical drivers to ensure the successful execution of the Court’s 2016-2020 Strategy and Implementation Plan



Issues and challenges around past performance

- No clear and structured delivery planning was done post-development of the 2012 – 2015 Strategy and implementation planning cycle i.e. no delivery plans, score cards were prepared
- The 2012 – 2015 Strategy did not have a clear Performance Management Framework i.e. no reviews of strategy and implementation plan, no performance tracking
- Capability mismatch and challenges driven by legacy issues i.e. no attempt was made to ensure the Court had the capacity to execute on the strategy and implementation plan



MODERN TOOLS TO BETTER ASSIST THE AFRICAN CITIZEN

A more stable network for more efficiency

In order to provide a more efficient service, and as part of the modernization of its information technology system, the Court resolved to revamp its network. Indeed, its system did not respect the standards required for a satisfactory functioning.

This situation led to numerous network and Internet outages in the Court that affected the productivity. In the same way, the maintenance of the network was time consuming and required a lot of human resources due to its poor conditions.

Today, the revamping of the network has enabled the body to:

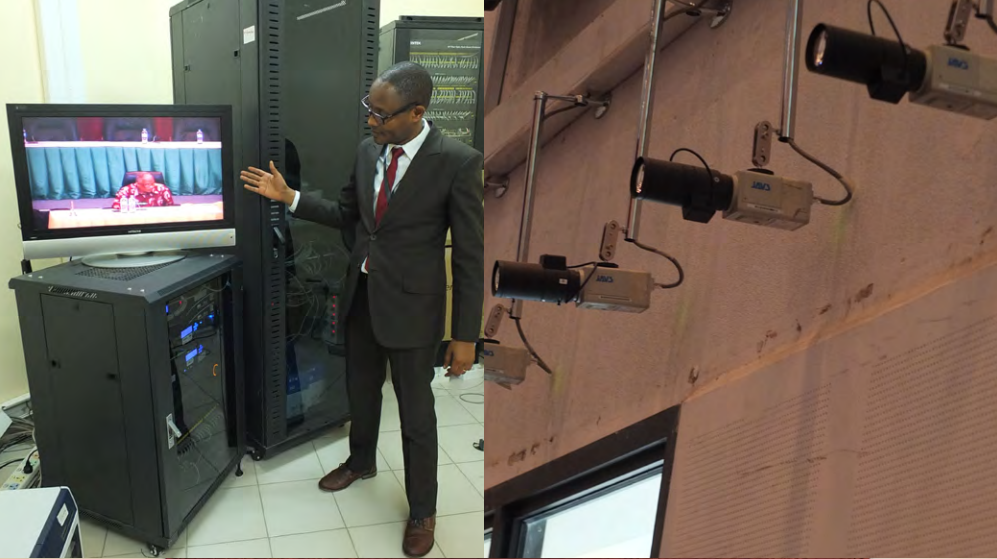
- work on a stable network, which allows for more efficiency;
- be more reactive in the event of a breakdown, as the system's configuration allows technicians to quickly detect the source of potential problems;
- use SAP within the body, as the implementation of the system is planned to be completed before March 2017.



"Previously, we had at least one network outage per day. With this network revamping, we have experienced only 3 limited shortages in the last 6 months, which were due to lack of electricity."

Kamya Julius

.....



A court room technology to strengthen proof accuracy

With the use of external providers for the recording and transcription of debates during trials, the body faced problems of omission and misinterpretation. To address this issue, a video and audio recording system has been set up within the court room.

The new technology makes it possible to record any occurrence that happens during debates and offers numerous advantages in the body's functioning:

- The archiving of exchanges during trials is ensured
- The reference to past debates is facilitated as the system

uses audio and video formats to provide information

- The quality of transcriptions is improved because exchanges can be listened to several times
- The cost of recording and transcribing is reduced. Trials no longer require the presence of a translator/transcription team on site. Therefore, travel costs and allowances are greatly reduced
- The archives or evidences are more reliable since electronic recording systems do not omit any detail

"With the implementation of the court room recording technology, we could save at least \$12,500 in the last six months. This amount represents only the DSA and tickets of translators that would have been needed during trials."

.....

A CAPACITY BUILDING PROGRAM TO MEET THE REAL NEEDS OF THE AFRICAN CITIZEN

As regards its training and development policy, the Court targeted seven main areas that directly contribute to the fulfillment of its mission to protect human rights:

1. Knowledge enhancement regarding international human rights law;
2. Exchange visits with judicial institutions and international organizations;

3. Staff development sessions on legal texts translation and on documentary resources management;
4. Staff member orientation and grouping sessions (peer learning, seminars, workshops) with the African Union Commission and other similar organizations;
5. Development of managerial and leadership skills, as well as enhancement of capacities

- relating to the use of new ICTs (SAP ERP, electronic management of legal requests, website, etc.);
6. Ongoing advanced trainings on proficiency in the various working languages of the African Union.

All in all, over 23 trainings have been provided to more than 200 trainees from 2014 to date.



Overview of a few training courses provided between 2014 and 2016

Training courses	Major Objectives	Number of participants
Benchmarking visit to Judicial Institutions.	<ul style="list-style-type: none">Acquire information on how the Judiciary implements initiative on incorporation of Information Technology in the Judiciary. This is particularly since the Judiciary of Singapore is considered one of the leaders in this area and has won numerous awards on the same.Make known the Court (awareness) and to discuss possible areas of collaboration and synergy.	Three Judges and three staff members.
Benchmarking visit to Judicial Institutions (on Case Management Systems).	<ul style="list-style-type: none">Get relevant information on handling judicial matters, on implementing the case management systems and to familiarize with their working methods.	One Judge and five Staff members
Benchmarking visit to Judicial Institutions.	<ul style="list-style-type: none">Exchange of judicial experience and establish a cooperation with the Supreme Court.Get informed on the use of the Case Management Systems and the Legal Aid.Make known the work of the Court.	One Judge and four Staff members.
Benchmarking visit to Judicial Institutions	<ul style="list-style-type: none">Exchange of judicial experience and establish a cooperation with the judicial institutions of Namibia.Get informed on the use of the Case Management Systems and the Legal Aid.Make known the work of the Court.	One Judge and three Staff members.
Judicial orientation programme for Judges	<ul style="list-style-type: none">Sensitize and enhance the knowledge of the members of the Court on the management of an International Court and exchange views on recent human rights developments.	Seven Judges and 10 staff members and Legal Interns

Experience sharing between European Court and African Court on Human and Peoples Rights	<ul style="list-style-type: none">Enhance cooperation with the ECHR through the sharing of experiences and good practices (to draw from ECHR experience in matters of case management – strategies and practices to simplify, enhance and speed up procedures; to identify other opportunities for information exchange and staff capacity building)	Twenty Staff members and seven Legal Interns of the Court.
Short Course on Legal Translation in the AU working languages	<ul style="list-style-type: none">Improve the quality of legal translation from a source AU Language into a target;	Four staff members
Koha Library Management Integrated Systems	<ul style="list-style-type: none">Equip some participants with knowledge of managing the system, of cataloguing, and others with IT capacity and configuration skills to manage the system and support system related issues;Acquire knowledge on the new version of Koha.	Three staff members
Result Based Management Training	<ul style="list-style-type: none">Review the current planning, monitoring, evaluation, and reporting weaknesses with a view of understanding and strengthening those weaknesses;Build staff capacity in key RBM concepts, tools and techniques.	Fifty staff members
SAP/ERP Integration of Business Processes	<ul style="list-style-type: none">Acquire an overview of SAP Business processes and basic knowledge of integrated modules of SAP.Equip the participants to familiarize with SAP features and use it	Eight staff members
Transforming Leadership and Governance Seminar	<ul style="list-style-type: none">Help Leaders to the Transforming Leadership and Governance paradigm;Help Leaders exercise effective leadership and governance and bring positive change to their spheres of responsibility and involvement;Equip Leaders as effective coaches who are leading transformation;Create a community of coaches who are developing effective transforming Leaders.	Two staff members
Leadership Training Programme for Leaders of the AU	<ul style="list-style-type: none">Gain an overview of the most relevant leadership concepts applied in the public sector domain and how to apply the core elements for analyzing and devising change processes.Introduce to the dynamics of change process.Enhance and practice the skills repertoire through identification and practicing of key leadership competencies, such as communication and negotiation skills.Learn about motivation theory;Become familiar with the inter-linkages between leadership, management and interpersonal communication skills; etc	Three staff members in 2014 and two staff members in July 2015
Training of trainers	<ul style="list-style-type: none">Upgrade participants' training skills.Increase knowledge on how to train adults.Acquire skills to evaluate and appraise a training program.Carry out summative evaluation and determine impact of training as per the Court's Training Policy.Review facilitation skills in a training situation.- Practice how to design and conduct a training.	Fifteen staff members
Dissemination of information and maintenance of the Website	<ul style="list-style-type: none">Acquire skills authoring website content.Familiarize with standard output templates (HTML, XML).Improve ability to create, edit or manipulate content.Improve flexibility and ability to manage the website.	Five staff members
Design and Implementation of HR Policies	<ul style="list-style-type: none">Enhance skills of Human Resources Practitioners in the designing, implementation, monitoring and evaluating of various Human Resources Policies to ensure their effectiveness in an Organization	Three staff members
HR Business Partner workshop	<ul style="list-style-type: none">Impart Strategic HR Management knowledge and skills including alignment with the overall strategy as well as integration of HR functions.Share best Business Partnership in the context of Human Resources.Outline the role of HR Business Partner.Reflect on ways of working in a HR Business Partner model.Outline the HR Business Partner competencies and behaviors.	One Staff
AU – Annual Finance Officers retreat	<ul style="list-style-type: none">Build and align financial knowledge and procedures;- Address financial challenges encountered and keep abreast of developments in the financial and accounting issues	One to two staff members per year or every two years
Integrated Project Finance Management	<ul style="list-style-type: none">Assist the participants to:<ul style="list-style-type: none">- acquire the modern concepts, policies and practices of project financial management;- be able to design and operate project financial management systems;Be able to execute corresponding payments, disbursements in accordance with sound professional standards and to harmonize the requirements from Donors and the respective Organization.	Two staff members

A LEARNING AND LISTENING APPROACH TO GET CLOSER TO THE AFRICAN CITIZEN



PEER EXCHANGE

In its endeavor to come close to and better serve the African citizen, the African Court decided to learn from its pairs. The key staff of the Court thus conducted four missions to profit from its sister entities’ lessons learned and best practices. These missions were also used as benchmarking.

This exchange of good practices took place in Singapore, Namibia, Turkey and Algeria, as the various judiciary bodies in these countries have extensive experience in implementing ICT solutions. Singapore, for example, owns one of the world’s leading judicial systems and has won numerous awards in this respect.

The African Court staff visited not only the various judiciary bodies of these countries but also their service providers. These meetings enabled them to appreciate the importance of setting up an innovative ICT solution in the various judiciary processes.

The different case management systems presented to the team achieved the following objectives,

among other things:

- Clarify, facilitate and streamline the workflow by integrating e-filing, e-workflow and e-court hearing system
- Provide stakeholders with 24/7 services
- Facilitate access to information on individual cases
- Improve files tracking
- Accessibility
- Gathering statisitcs – reporting
- Centralization
- Security

Implementing such a system will enable the Court to be more efficient and accessible.

Furthermore, the recording technologies ensure the quality of the archives and evidences during hearings.

Following these missions, the Court officials identified the implementation of those two solutions as one of their priorities. Today, the case management system is well underway.

Examples of functionalities offered by Singapore Supreme Court’s management system

1. for the general public:

- ie- Filing
- e- Service
- Case Information Repository
- Calendaring
- Law Firm Registration
- Notification and Alerts

2. for Judges and Court Administrators:

- Hearings & Calendaring Management
- Workflow Management
- E-Hearing Management
- Case Management
- Finance Management
- Online Enquiry Management

JUDICIAL DIALOGUE

To enhance the protection and promotion of human rights in Africa, the African Court identified as a priority the action of fostering connectivity between national, regional and continental judicial mechanisms and exploring means of ensuring cooperation and coordination, including the sharing of jurisprudence, information and best practices. Judicial Dialogues with the theme “Connecting national and international justice” were then proposed and carried out.

The first Judicial Dialogue took place in 2013 and focused the African human rights’ system in general as well as on the relationship between the African Court and the African Commission on Human and Peoples’ Rights in particular. The contentious and advisory jurisdictions of these two institutions were discussed, along with the human rights jurisprudence of the Regional Courts. The Dialogue also covered the various approaches to domestication of international human rights instruments and their application by national courts,

in addition to the enforcement of the decisions at continental and regional levels by national institutions.

The need to set the stage for fruitful interactions between national and international courts led the African Court to initiate dialogue with national judges across the continent and discuss relevant ways aimed at promoting and protecting human rights in Africa, while raising awareness on the role of participating institutions in this regard. The Dialogue also discussed how practical cooperation among Courts at various levels can be achieved and maintained.

The first Judicial Dialogue concluded, among other things that the dialogue should be institutionalized within the African Union and held on a bien-nial basis. The implementation of an African judicial network, the creation of an African center for judicial excellence and carrying out an African Case Law Analyzer Database were also suggested during this Dialogue. To date Terms of Reference and Con-

cept notes for the execution of these proposals are already developed.

Two years later, the second Judicial Dialogue provided participants with a forum to discuss issues relating to Judicial Reforms, Recent Developments and Trends on Human Rights Jurisprudence, as well as to carry on the Judicial Education. This last Judicial Dialogue aimed at contributing to the enhanced capacities of participating institutions.



DEDICATED JUDGES TO SERVE THE AFRICAN CITIZEN



Hon. Justice Sylvain Oré

President of the Court

Justice Sylvain Oré is a national of Côte d'Ivoire. He was elected Judge of the Court in 2010 for a four-year term and re-elected in 2014 for a six-year term. He has been an Advocate and Member of the Ivorian Bar since 1998.



Hon. Justice Rafâa Ben Achour

Justice Rafâa Ben Achour, a national of Tunisia, was elected Judge of the Court in June 2014, for a six year term. He is Professor Emeritus in Public Law at the Faculty of Law, Tunisia University of Carthage.



Hon. Lady Justice Solomy Balungi Bossa

Justice Solomy Balungi Bossa is a national of the Republic of Uganda. She was elected Judge of the Court in June 2014 for a term of six years. She is a member of the International Commission of Jurists and the international Association of Women Judges, among others.



Hon. Justice Ben Kioko

Vice President of the Court

Justice Kioko, a national of Kenya, was elected Judge of the Court in July 2012 for six years. He serves as a member of the Advisory Group on Implementation of the Human Rights Standards, University of Bristol, United Kingdom.



Hon. Justice Angelo Vasco Matusse

Justice Angelo Vasco Matusse is a national of the Republic of Mozambique. He was elected Judge of the Court in June 2014 for six years. He is a lawyer and has served as Deputy Attorney General for Mozambique.



Hon. Justice Gérard Niyungeko

Justice Niyungeko was elected Judge of the Court in January 2006 for a term of six years. He was re-elected for a second term from 2012-2018. He served twice as President of the Court, from 2006-2008, and from 2010-2012. He is a Professor at the Faculty of Law of the University of Burundi.



Hon. Lady Justice Ntyam Ondo Mengue

Justice Ntyam Ondo Mengue is a national of the Republic of Cameroon. She was elected Judge of the Court for a six-year term in July 2016. She has worked in the Cameroonian Judiciary since 1982 and has held a number of key positions.



Hon. Justice El Hadji Guissé

Justice El Hadji Guissé, a national of Senegal, was first elected as a Judge of the Court in January 2006. He was re-elected for a six-year term in July 2012. He has also served as President of the Court of Appeal of Dakar, Senegal.



Hon. Lady Justice Marie Thérèse Mukamulisa

Justice Marie Thérèse Mukamulisa is a national of the Republic of Rwanda. She was elected Judge of the Court for a six-year term in July 2016. She has been a Judge of the Supreme Court of Rwanda since 2003 and a member of the High Judicial Council of Rwanda since 2015.

To give a better insight into the situation and perspectives of the African Court, the President and Vice President agreed to present their views.



Hon. Justice Sylvain Oré
President of the Court

The African Court aims at ensuring the protection of Human and Peoples' rights in Africa. What does that mean in practice? What does the Court bring to the African citizen?

The Court is intended to supplement the protective mandate of the African Commission on Human and Peoples' Rights by issuing binding decisions. The Court discharges its mandate through two main means, which are by examining applications on human rights violations under a contentious procedure, or by providing an interpretation of the meaning of provisions of international human rights instruments through advisory opinions. In practice, the Court therefore protects human and peoples' rights by examining and making decisions on cases brought before it alleging violations of human rights.

What the Court brings to African citizens is to provide a remedy for violations, by African governments that are parties to the Court Protocol, of their rights as set out in the African Charter on Human and Peoples' Rights and other instruments ratified by the state concerned, which are alleged to have been violated. This means where national courts of the concerned

countries have failed to give justice to their citizens, then the African Court may step in as an alternative and complementary remedial body. That is because, prior to seizing the Court, applicants are requested to exhaust local remedies.

What are the main limitations regarding Africa's respect for human and peoples' rights? How do you intend to address these during your mission?

Reframing the issue: What could be the reasons why respect for human rights faces some challenges in Africa? – Challenges to an effective enjoyment of human rights is not specific to Africa. However, some of the challenges might be peculiar to Africa. Availability of resources, particularly financial, could be one of these challenges especially with respect to the implementation of economic and social rights. Another challenge could be the fact that many African countries still have nascent democracies with the associated political realities and constraints, particularly weak and under resourced national institutions, which are not independent and do not have the necessary mandates. Another major issue in that regard is the lack of a culture of respect for human rights among various state agencies. At the internal level as well, some national judiciaries have not always administered justice in an effective manner and without fear or favour. Given that national justice systems remain the main port of call for human rights protection, poor administration of justice at the domestic level is a major obstacle.

These obstacles are addressed through the jurisprudence that the court makes through its decisions as well as the regular judicial dialogues that are organised every two years bringing together Chief justices and other representatives of national judiciaries.

What are the main achievements of the Court so far?

Since it started its operation in 2006, the Court dealt solely from 2006 to 2008, with operational and administrative issues in-

cluding the structure of the Court's Registry, preparation of its budget and the drafting of its Interim Rules of Procedure. The Court received its first case on 11 August 2008. On December 15, 2009, the Court delivered its first judgment, finding an application against Senegal inadmissible. In addition, from 2010, the Court undertook several sensitization missions to African countries. These missions resulted in some states ratifying the Court Protocol or making the declaration under article 34(6) of the Protocol allowing individuals and NGOs to directly access the Court. This has in turn improved access to the Court. Currently, 30 states have ratified the Protocol thus making it possible for individuals and NGOs an indirect access to the Court through the Banjul Commission. On the other hand, 8 countries have made the declaration allowing direct access to the Court by individuals and NGOs, including Benin, Burkina Faso, Côte d'Ivoire, Ghana, Mali, Malawi, Rwanda (until February 2017), and Tanzania.

In terms of delivery, the Court has achieved significantly. In its first decade of operation, the Court received more than 120 contentious applications of which more than 80 per cent were received between 2011 and 2016. Of these applications, the Court has completed 32 as at December 2016, in which it gave 10 judgments on the merits or reparations. The issues determined include fair trial rights, political participation, freedom of expression and rights of journalists, and fair representation on electoral bodies. The Court also received 12 requests for advisory opinions, six of which it had dealt with as at December 2016.

As the President of the African Court and guarantor of human and peoples' rights' protection in Africa, do you have a special message for the African citizen?

African citizens should be aware that the Court is theirs, and civil society organisations should be instrumental in helping citizens to access the Court for the enjoyment of their rights. The Court can achieve its ultimate purpose only with an active engagement from citizens for whom the institution was established as it is referred to as a Court of human and peoples' rights.

"African citizens should be aware that the Court is theirs, and civil society organisations should be instrumental in helping citizens to access the Court for the enjoyment of their rights."



Hon. Justice Ben Kioko
Vice President of the Court

Since you have recently taken this position, what do you think should be the main motivation of every employee who wants to join this entity?

A prospective staff of the Court should understand that they will be serving the citizens of Africa. That is because the mission of the Court is to provide justice to African citizens whose human rights have been violated. Such mission is noble in the sense that justice is key to society as international courts such as the African Court constitute the last resort to citizens against their governments. As Martin Luther King once said, "without justice there can be no peace".

Of the 129 cases the Court has received since its operationalization, 87 are still pending. What are the main reasons for this waiting period?

The African Court has processes as any other court. Especially, international courts have quite cumbersome and lengthy processes. In some instances, delays are due to the parties themselves as the Court may not proceed without receiving all the pleadings from the parties. On the other hand, the judges of the Court do not work on a permanent basis. They only travel to the seat of the Court for sessions every three months and are therefore able to work on a part time basis. Finally, the Court also faces the challenges of limited human resources, particularly within its Legal Division while the number of applications increases over the years. Despite these challenges, the Court has been adjusting its working methods to deliver justice in an effective and timely manner. Indeed, expediting finalisation of cases is one of the issues that the new Bureau has taken up.

Could you provide a general profile of the cases presented to the African Court (main countries of origin, main reasons for complaints, age groups of complainants, etc.)?

It must be noted that currently, more than 75 per cent of the cases pending before the Court originate from the United Republic of Tanzania arguably due to proximity as the Court is based in that country. The main issues raised in the cases before the Court include mainly fair trial rights

but also issues as varied as political participation, freedom of expression, rights of journalists, freedom of movement and residence, legal aid, women's rights and inheritance in particular. As a general trend, pending cases involve adult applicants. It should be stressed that several fair trial cases involve inmates in the death row for whom the Court has issued orders for provisional measures..

In terms of substance, it could be relevant to indicate that the Court has dealt so far with some high profile cases, including Norbert Zongo v Burkina Faso, and Issa Lohé Konaté v Burkina Faso concerned with freedom of expression and the rights of journalists; and APDH v Côte d'Ivoire involving the composition and impartiality of the national electoral commission. There are also pending cases against Côte d'Ivoire, Ghana, Mali, Kenya, and Rwanda.

Currently, 24 Member States have not yet ratified the Protocol to the African Charter on Human and Peoples' Rights establishing the African Court. What advocacy actions does the Court take to get their buy-in?

As a matter of principle, the Court's role is to adjudicate matters brought before it and not to undertake promotion activities. However, given the initial low pace of ratification and declarations, which led to a very limited number of cases in its earlier days, the Court considered it necessary to undertake sensitization missions to countries which have not ratified the Protocol or made the declaration for individuals and NGOs to directly access the Court. It also appeared to the Court that many states do not ratify the Protocol or make the declaration for lack of adequate understanding of the procedures to do so. These missions involve engaging state authorities, Bar Associations, the Judiciary, national Human Rights Institutions and other stakeholders.

In addition to conducting sensitization missions, the Court also engages in various fora including training workshops with various stakeholders, including civil society organisations, the media, lawyers and law societies, academic institutions to encourage the same to promote the work and operation of the Court.



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