



20 YEARS OF THE AFRICAN COURT

PROTECT THE COURT, PROTECT THE PEOPLE

AMNESTY
INTERNATIONAL



Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

© Amnesty International 2026

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in 2020

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: IOR 60/1132/2026

Original language: English

amnesty.org



Cover photo: Opening of the judicial year at the African Court for Human and Peoples' Rights, March 2026. ©Alice Banens/Amnesty International

AMNESTY
INTERNATIONAL



CONTENTS

EXECUTIVE SUMMARY	5
1. INTRODUCTION	8
1.1 ESTABLISHMENT AND MANDATE OF THE AFRICAN COURT	8
1.2 OBJECTIVE OF THE REPORT	9
1.3 STATES' PARTIES TO AFRICAN COURT PROTOCOL	9
1.4 THE AFRICAN COURT IN THE AU ECOSYSTEM	10
2. RESTRICTED ACCESS TO THE AFRICAN COURT	12
2.1 ACCESS BY INDIVIDUALS AND NGOS	12
2.1.1 ARTICLE 34(6) DECLARATION	12
2.1.2 A DISAPPOINTING TRACK RECORD	13
2.1.3 LEGAL AID AND INFORMATION	15
2.2 ACCESS BY AFRICAN HUMAN RIGHTS BODIES	16
2.2.1 ACCESS BARELY USED BY THE AFRICAN COMMISSION	16
2.2.2 NO ACCESS FOR AFRICAN CHILDREN'S COMMITTEE	17
2.3 ACCESS BY STATES AND AFRICAN INTERGOVERNMENTAL ORGANISATIONS	18
2.4 ACCESS TO REQUEST ADVISORY OPINIONS	18
3. A SNAPSHOT OF TWO DECADES OF THE COURT'S CASE DOCKET	19
3.1 OVER 250 CASES FINALISED	19
3.2 HIGH NUMBER OF INADMISSIBLE COMPLAINTS	20
3.3 FINDINGS OF VIOLATIONS	22
3.4 A HANDFUL OF RESPONDENT STATES	22
3.5 PREVALENT THEMES IN THE COURT'S JURISPRUDENCE	23
3.5.1 FAIR TRIAL	24
3.5.2 ELECTIONS AND THE RULE OF LAW	25
3.6 IMPLEMENTATION OF THE COURT'S DECISIONS	29
3.7 FEW ADVISORY OPINIONS	30
4. LANDMARK DECISIONS OF THE AFRICAN COURT	31

4.1 MEDIA FREEDOM IN BURKINA FASO: ZONGO AND KONATÉ CASES	31
4.2 PROTECTING AN INDIGENOUS COMMUNITY IN KENYA: THE “OGIEK CASE”	32
4.3 EQUALITY FOR WOMEN IN MARRIAGE AND INHERITANCE IN MALI: APDF AND IHRDA CASE	33
4.4 DEATH PENALTY IN TANZANIA: ALLY RAJABU CASE	34
4.5 DECRIMINALIZING VAGRANCY LAWS: AN ADVISORY OPINION	35
4.6 PROTECTING THE ENVIRONMENT AND THE RIGHT TO HEALTH IN COTE D'IVOIRE: LIDHO, MIDH AND FIDH CASE	35
4.7 ENDING ATTACKS AGAINST PERSONS WITH ALBINISM IN TANZANIA: CHR, IHRDA AND LHRC CASE	37
5. RECOMMENDATIONS	38
TO AFRICAN UNION MEMBER STATES	38
TO THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS	38
TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS	39
TO THE AFRICAN UNION	39

EXECUTIVE SUMMARY

On 2 July 2006, the first judges to the African Court on Human and Peoples' Rights (the 'African Court') were appointed, marking the moment when the Court mandated to protect and promote human rights across the continent became a reality. At the time of the publication, the African Court celebrates its 20th anniversary. This report takes stock of the Court's first two decades, examining both the successes achieved and challenges faced in fulfilling its ambitious mandate.

The Court's mission is to protect, promote and defend human rights enshrined in the African Charter on Human and Peoples' Rights, the main human rights instrument in the African continent. It does so by adjudicating cases of alleged human rights violations against states (contention jurisdiction) or by issuing advisory opinions on the interpretation of the African Charter and other relevant human rights instruments (advisory jurisdiction).

As of July 2026, 34 States of the 55 AU Member States are States Parties to the Protocol establishing the African Court. Even though a majority of AU member states has ratified or acceded to the African Court Protocol, 21 states are yet to do so: Angola, Botswana, Central African Republic, Cape Verde, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Guinea, Liberia, Morocco (which must first ratify the African Charter), Namibia, Seychelles, Sierra Leone, Somalia, Sao Tome and Principe, Sudan, South Sudan, Swaziland and Zimbabwe.

The number of States Parties to the African Court Protocol is encouraging, however, ratification of the African Court Protocol does not in and of itself grant individuals and NGOs direct access to the Court. Under Article 34(6) of the Protocol, States Parties to the Protocol, in addition to having ratified the Protocol, "shall make a declaration accepting the competence of the Court" to receive cases by individuals and NGOs. However, despite this clear obligation, only a few states have deposited a 'Article 34(6) declaration'.

Over 20 years, only a dozen states made Article 34(6) declarations. Worse yet, as of July 2026 only seven declarations remain in force after five of these states withdrew their declarations. The countries with active Article 34(6) declarations are: Burkina Faso, Gambia, Ghana, Guinea-Bissau, Mali, Malawi, and Niger. Only in these countries can individuals and NGOs bring cases directly to the African Court when they cannot obtain prompt, effective and adequate remedy in their national courts.

In 2016, after Rwanda was the first state to request the withdrawal of its Article 34(6) declaration, the African Court ruled that states have the discretion to withdraw such declarations. This decision by the Court has been criticized. Four other countries have thereafter followed in Rwanda's footsteps: Tanzania in 2019, Benin and Cote d'Ivoire in 2020, and Tunisia in 2025. The common denominator in these withdrawals is the concerned countries' disagreement with the Court's decisions. In response to specific judgments of the Court, they have not only withdrawn their declarations but have also attacked the integrity of the African human rights system as a whole and deprived their populations of a crucial regional judicial avenue for redress.

Limited access remains one of the Court's biggest challenges. The disappointing track record of states in the depositing of Article 34(6) declarations has drastically limited direct access by individuals and NGOs to the African Court across the continent. Other actors entitled to bring cases to the African Court such as AU member states, African intergovernmental organizations and the African Commission on Human and Peoples' Rights ('the African Commission'), as provided for under Article 5 of the Protocol, have rarely done so. In practice, only one state has done so once and the African Commission has referred only three cases to the African Court between 2011 and 2013.

The extremely low number of cases transferred by the African Commission to the African Court is a missed opportunity to foster better protection of human rights on the continent and better complementarity between the two human rights bodies. It would help bringing down the backlog of cases before the African Commission with the extra benefit for the individuals or NGOs which brought a complaint to the Commission to then get a binding decision. It would also help mitigate the restrictions in access to the Court. As the Commission and the Court jointly adopted guidelines on the submission and transfer of cases in 2025, there is hope that the Commission will make increased use of its power to transfer cases to the Court in the future.

Furthermore, AU member states, the African Union, any of its organs, or “any African organisation recognized by the African Union” are entitled to request an advisory opinion from the African Court in accordance with Article 4(1) of the Protocol. However, the Court has adopted a restrictive interpretation of the latter category of “African organisations recognized by the African Union” as it rejected the submission that having the observer status before the African Commission, an AU body, was a form of recognition by the AU. According to the Court, with regards to NGOs, the power to request advisory opinions only goes to organisations which have been granted observer status by the AU Executive Council, or which have a Memorandum of Understanding with the AU. Excluding NGOs with observer status before AU bodies other than the Executive Council has unnecessarily prevented the Court from providing advisory opinions on various human rights issues.

Despite these limitations, the African Court has established itself as an important regional judicial mechanism for the protection and promotion of human rights. Over its 20 years of operations, it has received 363 complaints, finalized over 250 of these cases, including delivering almost 150 judgments on the merits, and issued four advisory opinions.

During the first decade, between 2006 and 2015, the Court had very little judicial activity, the early years focused on the operationalisation of this new jurisdiction. The number of complaints received by the Court was then the highest between 2015 and 2020. This was followed by an increase in the number of cases finalized by the court between 2019 and 2025, when the Court finalized between 20 and 40 cases annually. However, the number of new complaints received by the Court on average per year has declined since 2020, mainly due to the withdrawal of Article 34(6) declarations by Tanzania, Benin and Côte d'Ivoire's.

Of the 363 complaints filed, 111 were rejected before being examined on the merits, with close to half declared inadmissible because domestic remedies were not exhausted, perhaps indicating a lack of understanding of the admissibility criteria. Among the 147 cases found admissible and decided on merits, the Court found one or several human rights violations in 105 cases and no violation in 42 cases.

These cases decided on the merits concern only a few states (11 in total) - a very small number of states in comparison with the 55 AU member states or the 34 States Parties to the African Court Protocol. Cases against Tanzania represent a crushing majority of the cases examined on merits, with over two times more cases against Tanzania than cases against all other countries combined. The reach of the Court's jurisprudence is first and foremost shaped by the limits in who can access the Court. Nevertheless, an active Article 34(6) declaration is a prerequisite for the possibility of individuals and NGOs bringing cases directly to the Court, but it does not necessarily mean that people will make use of this possibility. No case has yet been judged on merits against Niger, Gambia or Guinea Bissau.

Women have barely used the African Court, representing less than 3% of the applicants in cases examined by the Court. In addition, cases brought by states, IGOs or the African Commission remain very rare.

Analysis of the human rights issues dealt with by the Court shows that the overwhelming number of cases filed at the Court relate to the criminal justice system in Tanzania. In consequence, the African Court has developed a comprehensive body of jurisprudence concerning the right to fair trial, in particular defence rights in the context of criminal proceedings. In connection, the Court also developed a body of jurisprudence on the right to dignity and the right to be free from torture and other ill-treatment for detainees.

Cases relating to election matters present another significant trend, cutting across several countries. The Court therefore developed comprehensive jurisprudence on election-related matters and the right of individuals to freely participate in the government of their country. The Court's jurisprudence in these cases often also dealt with other aspects more broadly related to the rule of law or the right to remedy, including the question of independence of the courts.

In addition to the comparatively large number of cases heard on certain issues, the African Court has also issued some landmark decisions which have significantly strengthened the promotion and protection of human rights in Africa. NGOs have particularly played a crucial role in bringing these cases to the Court,

enabling it to develop its body of jurisprudence and expand its human rights protection, especially for vulnerable or marginalized groups of people.

In the present report, Amnesty International highlights seven landmark decisions that have marked the first 20 years of the African Court. These are the following: The Zongo and the Konaté judgments against Burkina Faso in 2014 strengthened media freedom and the protection of journalists. The so called ‘Ogiek case’ against Kenya in 2017 led to the recognition of the rights of an indigenous community. In 2018, the case brought by APDF and IHRDA against Mali was the first judgment on the rights of women and girls with regards to equality in marriage and inheritance. One year later, the Ally Rajabu judgment against Tanzania found that the mandatory death penalty constitutes a violation of the right to life. The 2020 advisory opinion of the African Court enjoining all AU member states to repeal vagrancy laws was a landmark step for the protection of vulnerable people in the streets. In 2023, the judgment against Cote d’Ivoire concerning the Probo Koala cargo ship developed crucial jurisprudence for the protection of the environment and peoples’ right to health against actions of private companies. Finally, most recently in 2025, the Court issued an important decision related to combating discrimination and attacks against persons with albinism in Tanzania.

At the same time, implementation of the Court’s decisions is extremely difficult to monitor, as states have rarely submitted the relevant information to the Court. Nevertheless, it is evident that implementation of the Court’s judgments and orders is one of the major challenges for the African Court, and full compliance with the Court’s judgments is extremely low. At the request of the AU Executive Council, in February 2019 the African Court submitted to the Executive Council a Draft Framework for Reporting and Monitoring Execution of the Judgments and Other Decisions of the African Court for its consideration and adoption. Instead, the Executive Council directed that the Framework be forwarded for review to the AU Specialised Technical Committee (STC) on Justice and Legal Affairs. Seven years later, the STC has not yet finalized its consideration of the Framework.

Amnesty International calls on all AU member states that have not yet done so to ratify the African Court Protocol and to deposit an Article 34(6) declaration allowing direct access for individuals and NGOs, and for all states concerned to implement fully and effectively all judgments and orders of the African Court issued against them. The African Court and other AU bodies should make all efforts to facilitate the transfer of cases between the African Commission and the African Court, operationalise the legal aid fund for AU human rights bodies and monitor and ensure states’ compliance with the Court’s decisions.

Protecting the Court is essential to ensuring it can continue to protect human rights in Africa for decades to come.

1. INTRODUCTION

1.1 ESTABLISHMENT AND MANDATE OF THE AFRICAN COURT

On 9 June 1998, African Union (AU) member states meeting in Burkina Faso adopted the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereafter 'the African Court Protocol' or 'the Protocol'). The idea of a regional human rights court for Africa had been in discussion among AU member states for several years, but it was only in Ouagadougou in 1998 that states came to a formal agreement.¹

The Protocol came into force on 25 January 2004 after it was ratified by more than 15 countries. It took a few years before the African Court became fully functional. On 2 July 2006, the first judges were appointed. At the time of publication of this present report, the African Court is celebrating its 20th anniversary.

The Court's mission is to protect, promote and defend human rights enshrined in the African Charter on Human and Peoples' Rights (hereafter 'the African Charter'), the main human rights instrument on the African continent.² The African Court carries out its mandate by interpreting and applying the African Charter, as well as the African Court Protocol and any other relevant human rights treaties ratified by the concerned State(s). This can happen in two situations:

- Cases against states: The Court may receive complaints against one or several State(s) alleging that the(se) State(s) has/have violated the rights of one or several persons, or a community, or a population. When that happens, the Court will analyse the case taking into account arguments by the complainant(s), the concerned State(s) and sometimes other interveners. The Court will thereafter render a judgment explaining how and why there was, or there was not, a human rights violation. In the event it makes a finding of violation, the Court will order the State to take specific measures to remedy the situation, such as changing the law or paying compensation to the persons who suffered the human rights violation. This is what is referred to as the 'contentious jurisdiction' of the Court.
- Advisory opinions: The Court may receive requests for advisory opinions. These requests are questions submitted to the judges on any legal matter relating to the African Charter or other relevant human rights instruments. Upon receiving such request, the Court will analyse the question and will then issue an advisory opinion to give guidance to States on how to interpret or apply the law with regards to the concerned question. Although these opinions do not target any State in particular, they may lead to practical changes with a wide impact on the continent. This is what is referred to as the 'advisory jurisdiction' of the Court.

The African Court seats in Arusha, Tanzania, and is composed of 11 judges. The judges are elected in their individual capacities by the AU Assembly from among jurists of high moral character and recognized practical, judicial, or academic competence and experience in the field of human and peoples' rights. Candidates for elections are nominated by States Parties to the African Court Protocol. In practice, the AU Assembly considers and strictly ensures equitable geographical representation in the election of the judges

¹ The first time the idea of an African Court was raised was at the 1961 Conference on the rule of law in Lagos. Later, in the 1990s, several drafts of the Protocol were subsequently discussed until the 1998 version.

² African Charter on Human and Peoples' Rights, adopted in 1981 and entered into force in 1986. All African Union member states are parties to the African Charter except Morocco, 54 out of 55 member states.

of the Court. This practice is based on Article 14(2) of the Court Protocol which requires the AU Assembly to ensure that “in the Court as a whole there is representation of the main regions of Africa and of their principal legal traditions”. The African Court Protocol also requires the AU member states to give “due consideration” to “adequate gender representation” in nominating candidates for election as judges of the African Court.³ The Protocol also makes it mandatory for the AU Assembly to ensure “adequate gender representation” in the election of judges of the Court.⁴

The Court meets at least four times a year, during ‘ordinary sessions’, usually held in March, June, September and December. Each session lasts for about 4 weeks. The Court can additionally decide to meet in ‘extraordinary’ sessions, for instance, when there is an urgent matter to decide on or when there is a particular backlog of cases.

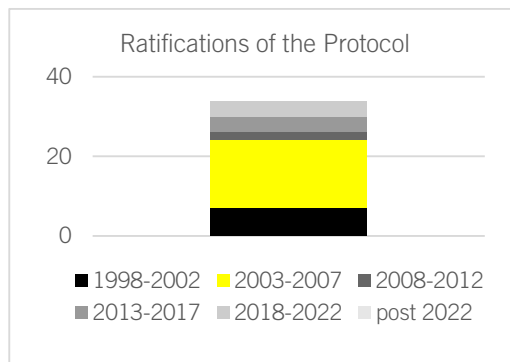
1.2 OBJECTIVE OF THE REPORT

In July 2026, the African Court will celebrate its 20th anniversary since the appointment of the first judges. This report aims to mark this occasion. It takes stock of the first 20 years of this regional human rights court.

The report discusses the evolution of direct access to the Court for individuals and Non-Governmental Organisations (NGOs) in Africa (Chapter 3). It also examines the general trends observed in the 20 years of the Court’s operation, including the range of states against which complaints have been filed, the types of issues brought to the Court, and trends in the number of cases (Chapter 4). The report also highlights some of the Court’s landmark decisions, marking important milestones in the protection and promotion of human rights on the continent (Chapter 5).

1.3 STATES’ PARTIES TO AFRICAN COURT PROTOCOL

As of June 2026, 34 States out of the 55 AU Member States are States Parties to the Protocol establishing the African Court.⁵



A significant number of African states ratified the African Court Protocol during the decade which followed the 1998 conference in Ouagadougou. Between 2003 and 2004 alone, 15 states ratified the Protocol.

However, from 2005, new ratifications became rare. At the time of writing of this report, Madagascar and Zambia were the last two states to ratify or accede to the African Court Protocol in 2021 and 2022 respectively. There has not been any new ratification/accession since then.

The objective is for the African Court to be a continental court in order to effectively protect and

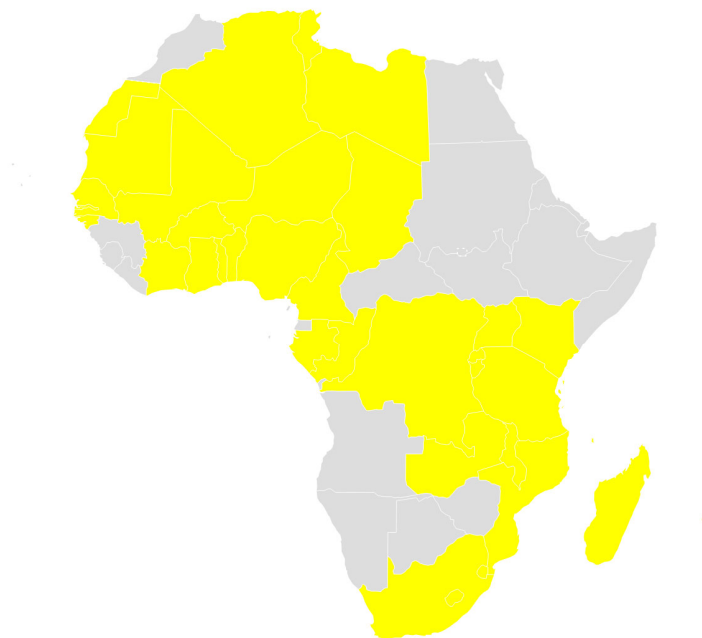
promote rights under the African Charter. Even though a majority of AU member states has ratified or acceded to the African Court Protocol, 21 states are yet to do so: Angola, Botswana, Central African Republic, Cape Verde, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Guinea, Liberia, Morocco, Namibia, Seychelles, Sierra Leone, Somalia, Sao Tome and Principe, Sudan, South Sudan, Swaziland and Zimbabwe. Of these, only Morocco is yet to ratify the African Charter, and it would need to do so first.

Civil society organisations have had an important role in raising awareness about the African Court and advocating for ratifications of the African Court Protocol. Civil society organisations, bar associations and citizens should continue to encourage the authorities of their countries to ratify the African Court Protocol when they have not yet done so.

³ African Court Protocol, Article 12(2)

⁴ African Court Protocol, Article 14(3).

⁵ For the list of countries which have signed, ratified/acceded to African Court Protocol, see: <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-establishment-african-court-human-and>



— states that have ratified the African Court Protocol

1.4 THE AFRICAN COURT IN THE AU ECOSYSTEM

As a regional treaty body, the African Court exists and operates within the broader AU ecosystem or institutional architecture. Several provisions in the Protocol underscore this reality. The Judges of the Court are elected and appointed by the Executive Council on delegated powers from the AU Assembly.⁶ The budget of the Court is determined and borne by the AU.⁷ Moreover, the Court submits its annual reports to the AU Executive Council in which it provides an account of its activities as well as an assessment of states' compliance with its decisions.⁸ In this context, the Executive Council has the statutory mandate to monitor the execution of the Court's judgments on behalf of the AU Assembly.⁹

Over the years, the AU has sought to adjust or remake the institutional design of the African Court although none of these efforts has come to fruition thus far. In July 2008, the AU Assembly adopted the Protocol on the Statute of the African Court of Justice and Human Rights (hereafter the "Merger Protocol"). The Merger Protocol seeks to merge the Court of Justice of the African Union, the AU's principal judicial organ for settling inter-state disputes, with the African Court. Although the Protocol of the Court of Justice of the African Union entered into force in 2009, the Court of Justice of the African Union has never been operationalized due to, among other factors, budgetary constraints. The Merger Protocol envisages a regional court with two sections: a general affairs section and a human rights section. The Merger Protocol has not yet entered into force because it has received only eight of the 15 ratifications that it requires to enter into force.

In June 2014, the AU adopted yet another treaty, the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (hereafter "Malabo Protocol") that aims to further change the potential future institutional design of the African Court. The Malabo Protocol seeks to introduce a third section, an international criminal law section, to the structure already envisaged under the Merger Protocol. Essentially, the court envisioned under the Malabo Protocol will have three sections: a general affairs section, a human rights section, and an international criminal law section. The Malabo Protocol has

⁶ African Court Protocol, Article 14.

⁷ African Court Protocol, Article 32.

⁸ African Court Protocol, Article 31.

⁹ African Court Protocol, Article 29(2).

also not yet entered into force because it has received only one out of the 15 ratifications it requires to enter into force.

In February 2025, there seemed to be some momentum towards the operationalization of the Court of Justice of the African Union when the AU Assembly directed the Permanent Representatives' Committee (PRC) to prepare a report on the legal, structural and financial implications of operationalising it.¹⁰ This report was expected to be tabled for consideration by the Executive Council in July 2025, but as at the time of writing, it had yet to be tabled or considered.

At the same time, in the context of the ongoing AU institutional reform process which started in 2017, several proposals relating to the restructuring of the regional human rights bodies, including the African Court, have been mooted and discussed but no concrete decisions have been taken yet. A May 2023 restructuring report commissioned by the AU Assembly, and submitted to the policy organs in February 2024, containing positive recommendations in respect of the Court, including maintaining the number of the judges at 11 and repealing or amending Article 34(6) of the Protocol to allow direct access for individuals and NGOs.¹¹ It also presents the option of establishing a shared services centre to serve all the AU judicial and quasi-judicial bodies. The shared services centre will deliver shared services such as those relating to finance and administration, human resources, procurement, legal services, IT management, and communication and publication. As at the time of writing, no decision on the reform of the African Court had been formally taken.

¹⁰ Decision on the Report of the Institutional Reform of the African Union by H.E. William Ruto, President of the Republic of Kenya, Assembly/AU/Dec.920(XXXVIII), para 13 ([45112-Assembly_AU_Dec_903_-_941_XXXVIII_E.pdf](#))

¹¹ African Union, AU Institutional Reform Consolidated Data: Reform of the Judicial and Quasi-Judicial system, January 2024.

2. RESTRICTED ACCESS TO THE AFRICAN COURT

The Court has jurisdiction over human rights violations allegedly committed by any state party to the African Court Protocol and for all requests for advisory opinions on the African Charter or other relevant human rights instruments. However, not everyone can bring complaints against states or submit requests for advisory opinions.

Article 5 of the African Court Protocol provides that the African Commission on Human and Peoples', states parties, African Intergovernmental organisations, and, in some instances in accordance with article 34(6) of the Protocol, individuals and NGOs with observer status before the African Commission, are entitled to bring contentious cases to the African Court.

As for advisory opinions, Article 4 of the same Protocol lists AU member states, the AU and any of its organs, or any African organisation recognized by the AU, as the entities entitled to request an advisory opinion from the African Court.

2.1 ACCESS BY INDIVIDUALS AND NGOS

2.1.1 ARTICLE 34(6) DECLARATION

Ratification of the African Court Protocol does not in and of itself open the possibility for individuals and NGOs to directly seek redress before the African Court against a State. For individuals and NGOs (with observer status before the African Commission on Human and Peoples' Rights) to be able to directly submit complaints to the African Court, the concerned State(s), in addition to having ratified the Protocol, must have also deposited a declaration allowing direct access by individuals and NGOs in accordance with article 34(6) of the Protocol.¹²

Article 34(6) of the Protocol reads: "At the time of the ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under article 5(3) of this Protocol. The Court shall not receive any petition under article 5(3) involving a State Party which has not made such a declaration."

The wording of this article clearly indicates that states have an obligation to make such a declaration. Although there is no time limit indicated, it is nevertheless not optional. The language is unambiguous: the use of the word 'shall' implies an obligation. The version of the Protocol in other languages also confirm this interpretation, with the use of the words "doit" in French and "deve" in Portuguese.

¹² Article 5 of the Protocol lists the following as entitled to bring cases to the Court: the African Commission on Human and Peoples' Rights, states parties, African Intergovernmental organisations, and, in some instances in accordance with article 34(6) of the Protocol, individuals and NGOs with observer status before the African Commission.

Despite such clear obligation, only a few states parties to the African Court Protocol have deposited what is commonly referred to as ‘Article 34(6) declaration’, allowing individuals and NGOs to directly access the Court.

2.1.2 A DISAPPOINTING TRACK RECORD

As the host country of the conference where the Protocol was adopted, Burkina Faso was the first state to ratify the Protocol and make an Article 34(6) declaration in 1998. It remained the only state to do so for the next 10 years.

In 2008, Malawi also made the declaration. It was followed by Mali and Tanzania in 2010, Ghana in 2011, Rwanda and Cote d'Ivoire in 2013, and Benin in 2014.¹³ Other countries that have made the declaration are Tunisia (2017), Gambia (2018), Niger (2021) and Guinea Bissau (2021). However, as discussed below, only seven declarations remain in place after five of them withdrew theirs. The countries with active Article 34(6) declarations are: Burkina Faso, Gambia, Ghana, Guinea-Bissau, Mali, Malawi, and Niger. Only in these countries can individuals and NGOs bring cases directly to the African Court when they cannot obtain prompt, effective and adequate remedy in their national courts.

While many states have failed to make the required declaration, in February 2016, Rwanda sent a letter to the AU Commission *withdrawing* its Article 34(6) Declaration. In the letter,¹⁴ Rwanda justified its decision by arguing that the Court had given audience to not only a “genocide convict” but also “a fugitive from justice”, a “kind of person” that it had not envisaged would access the Court on the basis of the declaration. This referred to the case brought by six Rwandan nationals living in South Africa at the time, among whom Safary Stanley who had been convicted of genocide by Rwandan courts and was under international arrest warrant.¹⁵

The Protocol does not expressly allow for the withdrawal of Articles 34(6) declaration. It does not expressly forbid it either. In its determination of the validity of Rwanda’s withdrawal, the African Court ruled that states have the discretion to withdraw such declarations. The court stated: “[A]lthough the declaration emanates from the Protocol, its making is optional in its nature. As such, and being unilateral, the declaration is separable from the Protocol and is therefore subject to withdrawal independently of the Protocol. [...] As far as unilateral acts are concerned, state sovereignty commands that states are free to commit themselves and that they retain discretion to withdraw their commitments.”¹⁶ Although this decision remains the Court’s position on the matter, it has been criticised.¹⁷

In its decision, the Court also specified that such a withdrawal would only take effect one year after a state’s notice and would not have any impact on pending cases. According to the Court, “the requirement of notice is necessary as the declaration pursuant to Article 34(6) once made constitutes not only an international commitment on the part of the state, but more importantly, creates subjective rights to the benefit of individuals and groups.”¹⁸

After Rwanda’s withdrawal of its declaration, four other countries have followed in its footsteps. These are: Tanzania in 2019, Benin and Cote d'Ivoire in 2020, and Tunisia in 2025. The common denominator in these withdrawals is the concerned countries’ disagreement with the Court’s decisions. In response to specific

¹³ All declarations are available on the Court’s website: <https://www.african-court.org/afchpr/declarations>

¹⁴ Rwanda Ministry of Foreign Affairs and Cooperation, Withdrawal for review by the Republic of Rwanda from the Declaration made under article 34(6) of the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, 24 February 2016, <https://www.african-court.org/afchpr/wp-content/uploads/2020/10/Withdrawal-Rwanda.pdf>

¹⁵ The case was filed on 22 July 2015, seven months prior Rwanda’s decision to withdraw its Article 34(6) Declaration. See: Order on the request for interim measures, *General Kayumba Nyamwasa and six others v Rwanda*, 24 March 2017, Application 016/2015.

¹⁶ Ruling on jurisdiction, *Ingabire Victoire Umuhoza v Rwanda*, 3 June 2016, Application 003/2014, paras 57-58.

¹⁷ The Court in its decision fails to remind states of their obligation to eventually deposit 34(6) declarations. In its arguments, the Court also noted that “Regarding the rules governing recognition of jurisdiction of international courts, the Court notes that related declarations are generally optional in nature. This is illustrated by the provisions relating to the recognition of jurisdiction of the International Court of Justice, the European Court of Human Rights and the Inter-American Court of Human Rights. The Court is of the view that the declaration provided under article 34(6) is of similar nature to those mentioned above.” However, in doing so the Court failed to acknowledge that, in relation to the International Court of Justice and the Inter-American court, the provisions in question use the word “may” and not the word “shall” such as in the African Court Protocol, therefore making the declaration truly optional and not an obligation. As for the European Court, the Court also failed to acknowledge that the provision in question had not been applicable since 1994, that is over 20 years at the time of the Court’s decision, from since the European Court’s jurisdiction was not optional anymore.

See also: amicus curiae submitted by the Coalition for an efficient African Court in the case *Ingabire Victoire Umuhoza v. Rwanda* (application 003/2014), 13 mai 2016 ; Segnonna Horace Adjolohoun, « Les grands silences jurisprudentiels de la Cour africaine des droits de l’Homme et des Peuples », 2018, African Human Rights Yearbook Vol.2 ; Criss-Dess Dongar, Agbodjan Didier and Nouwagnon Olivier Afogo, “Le retrait du consentement des Etats à l’office de la Cour africaine des droits de l’homme et des peuples : déni du droit d’accès des citoyen à la justice régionale ? », 2022, African Human Rights Yearbook Vol.6.

¹⁸ Ibid, para. 61

judgments of the Court, they have not only withdrawn their declarations but have also attacked the integrity of the African human rights system as a whole and deprived their populations of a crucial legal avenue for redress.

Tanzania withdrew its declaration in November 2019 arguing that the Court's implementation of the declaration was contrary to the reservations it had made when making the declaration.¹⁹ In making the declaration, Tanzania had asserted that direct access to the Court should only be granted to individuals and NGOs "once all domestic legal remedies have been exhausted and in adherence to the Constitution of the United Republic of Tanzania". Its letter of withdrawal did not provide any evidence that the Court had admitted cases in which local remedies had not been exhausted or to which internationally recognized exceptions did not apply. At the time of the withdrawal, Tanzania had the highest number of cases filed by individuals and NGOs as well as judgments issued against it by the African Court. A significant proportion of these cases concerned the right to fair trial, particularly for individuals convicted of serious crimes, such as murder and rape, or those serving or sentenced to death (see sections 3.4 and 3.5 of this report below).

In March and April 2020, Benin and Cote d'Ivoire respectively withdrew their Article 34(6) declarations.²⁰ Both countries had seen a rise of cases brought against them, with 14 and 25 complaints submitted against Benin and Cote d'Ivoire respectively in 2019 alone, together representing a significant proportion of the 68 complaints brought to the court in total that year 2019. This was in stark contrast with previous years, during which only one to three complaints had been submitted against each of the two states.

In the case of Benin, the withdrawal was apparently triggered by judgments of the Court that had caused "serious disruption of the domestic legal order [...] detrimental to the necessary economic attractiveness of States Parties".²¹ In this context, the withdrawal came not long after the Court had ordered Benin in February 2020 to stay the change of ownership of a piece of land and the seizing or demolition of buildings, which were at the heart of a property dispute between a businessman and a bank.²² A few months earlier, the Court had ordered Benin to pay the highest amount of reparations ever granted by the Court in a case brought by another businessman.²³

For Cote d'Ivoire, many of the cases brought against it in 2019 were filed by opposition politicians in connection to its national elections (see section 3.5.2 below). In particular, Cote d'Ivoire withdrew its declaration only a few days after the Court had ordered that a group of well-known opposition politicians, who were all held in pre-trial detention on charges of corruption and attack against the integrity of the state, be released in order to enable them to participate in the electoral campaign, as long as they were presumed innocent.²⁴

Tunisia withdrew its declaration in March 2025 for what it perceived to be 'politically motivated' cases filed against it at the African Court.²⁵ The decision to withdraw came after a series of judgments from the Court found multiple decisions of the Tunisian president to be incompatible with the country's human rights obligations.²⁶ These included presidential decrees suspending the powers of parliament or dismissing judges,²⁷ or decisions concerning detained political opponents.²⁸

¹⁹ Embassy of the United Republic of Tanzania in Ethiopia, Letter Ref. No. CHAD 133/738/01/2, 21 November 2019, https://www.african-court.org/afchpr/wp-content/uploads/2020/10/Withdrawal-Tanzania_E.pdf; Amnesty International, "Tanzania : Withdrawal of individual rights to African Court will deepen repression", 2 December 2019, <https://www.amnesty.org/en/latest/press-release/2019/12/tanzania-withdrawal-of-individual-rights-to-african-court-will-deepen-repression/>

²⁰ Ministère des affaires étrangères et de la coopération du Bénin, Lettre No 216/ MAEC/AM/SP-C, 24 March 2020, <https://www.african-court.org/afchpr/wp-content/uploads/2020/10/Withdrawal-Benin.pdf>; Ministère des affaires étrangères de la République de Côte d'Ivoire, Lettre No 186/MAE/BM/Amp, 28 April 2020, <https://www.african-court.org/afchpr/wp-content/uploads/2020/10/withdrawal-Cote-divoire.pdf>; Amnesty International, "Benin : Withdrawal of individuals right to refer cases to the African Court a dangerous setback in the protection of human rights", 24 April 2020, <https://www.amnesty.org/en/latest/news/2020/04/benin-le-retrait-aux-individus-du-droit-de-saisir-la-cour-africaine-est-un-recul-dangereux/>; Amnesty International, "Cote d'Ivoire: Le retrait aux individus du droit de saisir la Cour africaine est un recul pour les droits humains", 29 April 2020; Amnesty International, "Benin : Withdrawal of individuals right to refer cases to the African Court a dangerous setback in the protection of human rights", 24 April 2020, <https://www.amnesty.org/fr/latest/news/2020/04/cote-divoire-cour-africaine-est-un-recul-pour-les-droits-humains/>

²¹ Ministère des affaires étrangères et de la coopération du Bénin, Lettre No 216/ MAEC/AM/SP-C, 24 March 2020

²² Order for provisional measures, *Gaby Kodeih v. Benin*, 28 February 2020, Application 006/2020; Order for provisional measures, *Gaby Kodeih and Nabih Kodeih v. Benin*, 28 February 2020, Application 008/2020

²³ Judgment on reparations, *Sebastien Germain Ajavon v. Benin*, 28 November 2019, Application 013/2017

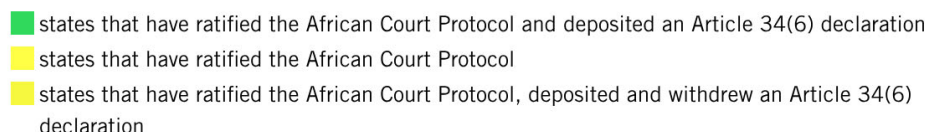
²⁴ Order for provisional measures, *Guillaume Kigbafori Soro and others v. Cote d'Ivoire*, 22 April 2020, Application 012/2020

²⁵ Asmaa Slaimia, "Derecognizing the African Court's jurisdiction: Entrenching authoritarianism in Tunisia", 24 May 2025, <https://english.legal-agenda.com/derecognizing-the-african-courts-jurisdiction-entrenching-authoritarianism-in-tunisia/>

²⁶ Amnesty International, "Joint statement: Tunisia's withdrawal of individuals' and NGOs' access to the African Court marks a serious setback for human rights accountability", 27 March 2025, <https://www.amnesty.org/fr/documents/mde30/9191/2025/en/>

²⁷ Judgment, *Samia Zorgati v. Tunisia*, 13 November 2024, Application 016/2021; Order for provisional measures, *Hammadi Rahmani and others v. Tunisia*, 3 October 2024, Application 008/2024; Judgment, *Ibrahim Ben Mohamed Ben Ibrahim Belguith v. Tunisia*, 22 September 2022, Application 017/2021

²⁸ Order for provisional measures, *Moadh Kheriji Ghannouchi and others v. Tunisia*, 28 August 2023, Application 004/2023



limited reach. For example, in 2025, the Court granted legal aid in four cases out of the 52 applications for legal aid that it reviewed during the year.³⁰

In 2016, the African Union also created on paper a Legal Aid Fund for all the three AU human rights bodies. However, this Fund has yet to be established or operationalised.³¹

In addition, complainants and their counsel also need to have access to all relevant information for the preparation of their case. In this regard, the Court has made considerable effort to provide relevant information on its website, including legal documents, practice directions, as well as a database of the Court's jurisprudence. The Court also makes efforts to have all this information provided in Arabic, English, French, Portuguese, although translations are not always available in all languages.

The Court must continue to improve on its efforts to make relevant information publicly available. For instance, the Court should consider making available on its database not only its rulings and judgments, but also all applications, pleadings, and interventions by third parties, including amicus curiae briefs. The Court should also consider incorporating search functions into its jurisprudence database to enable the filtering of specific issues by Charter provision or through such other criteria. These improvements would be helpful for potential applicants and respondents before the Court, and to domestic courts or authorities which intent on applying the Court's guidance in the exercise of their mandates.

2.2 ACCESS BY AFRICAN HUMAN RIGHTS BODIES

2.2.1 ACCESS BARELY USED BY THE AFRICAN COMMISSION

When the African Court was created, it was designed as a human rights body complementary to the already existing African Commission on Human and Peoples' Rights (hereafter 'the African Commission' or 'the Commission'). Complementarity of these two institutions appears, among other aspects, in Article 5 of the African Court Protocol which provides that the African Commission is entitled to bring cases to the African Court.³²

While they are two separate AU bodies, the African Court and the African Commission are both tasked with protecting and promoting human rights in Africa. The African Commission monitors States Parties' implementation of the African Charter and develops human rights standards. It also has a quasi-judicial function; it can receive complaints and give recommendations to States on specific cases. The African Court was created to complement³³ and reinforce the quasi-judicial function of the Commission. Unlike the Commission, the Court is a judicial body which issues decisions which are binding on States.

However, despite its power to transfer cases to the African Court on its own initiative, in practice the African Commission has rarely used this power in 20 years. The Commission submitted a case to the Court for the first time in March 2011. This case, against Libya, was never examined on the merits because it was struck out for lack of diligent prosecution by the part of the African Commission.³⁴

Subsequently, the Commission brought two other complaints to the Court, in 2012 and 2013. The first led to a landmark judgment against Kenya (the 'Ogiek case',³⁵ see section 4.2 below) while the second resulted in a judgment against Libya.³⁶ The Commission has not transferred any other case to the African Court in the past 13 years.

³⁰ Activity Report of the African Court on Human and Peoples' Rights, 1 January – 31 December 2018, Ex.CL/1126(XXXIV), para. 20

³¹ Statute on the Establishment of the Legal Aid Fund of Human Rights Organs of the African Union, <https://www.african-court.org/afchpr/wp-content/uploads/2020/10/22-STATUTE-ON-THE-ESTABLISHMENT-OF-LEGAL-AID-FUND.pdf>

³² Article 5 of the Protocol lists the following: the African Commission on Human and Peoples', states parties, African Intergovernmental organisations, and, in some instances in accordance with article 34(6) of the Protocol, individuals and NGOs with observer status before the African Commission, are entitled to submit cases.

See also Rule 36 of the 2020 Rules of the Court on "seizure of the Court by the Commission".

³³ Based on the African Protocol and on the Rules of the Court, (i) the Commission may transfer a case to the Court on its own initiative, (ii) the Court may hear the Commission in the course of examining a case, as a party to the case when the complaint was submitted to the Court by the Commission or also as an expert, (iii) the Court also has the possibility to request the Commission to travel to a State and conduct certain investigations when it is needed for an ongoing case, and (iv) the Court has the power to review the decision of the Commission in a particular case.

³⁴ Order, *African Commission on Human and Peoples' Rights v. Great Socialist Peoples' Libyan Arab Jamahiriya*, 15 March 2013, Application 004/2011

³⁵ Judgment, *African Commission on Human and Peoples' Rights v. Kenya*, 26 May 2017, Application 006/2012

³⁶ Judgment, *African Commission on Human and Peoples' Rights v. Libya*, 3 June 2016, Application 002/2013

The Commission's lack of use of its power to transfer cases to the Court is a missed opportunity to foster better protection of human rights on the continent and better complementarity between the two human rights bodies. On the one hand, it would help bringing down the backlog of cases before the African Commission with the extra benefit for the individuals or NGOs which brought a complaint to the Commission to then get a binding decision. On the other hand, it would help mitigate the restrictions in access to the Court (see section 2.1 above), thereby broadening the Court's exercise of its jurisdiction beyond just a few states which have deposited the Article 34(6) declarations.

The two institutions are aware of the need to enhance complementarity and cooperation between them. In June 2025, they jointly adopted Guidelines on the submission and transfer of cases, with the aim of putting in place procedures which would facilitate the effective transfer of cases between the African Commission and the African Court.³⁷ These guidelines do not provide the criteria for determining which cases should be subject to transfer, but paragraph 22 of the Guidelines provides that “before each session, the Secretary of the Commission shall make a list of cases and transmit them to the member of the Commission, who shall indicate which cases should be considered for submission to the Court.” In theory, all cases before the Commission can be considered for transfer to the Court.

2.2.2 NO ACCESS FOR AFRICAN CHILDREN'S COMMITTEE

In addition to the African Commission and the African Court, the AU has a third human rights body: the African Committee of Experts on the Rights and Welfare of the Child (hereafter ‘the African Children's Committee’). This Committee monitors States' implementation of the African Charter on the Rights and Welfare of the Child³⁸ and develops standards on children's rights. It also has, similarly to the African Commission, a quasi-judicial function on the basis of which it can receive complaints from individuals and make recommendations to States on specific cases related to children's rights and welfare.

Article 5 of the African Court Protocol explicitly lists the African Commission as one of the entities allowed to bring cases to the Court, but unfortunately it does not include the African Children's Committee.³⁹ This is likely explained by the fact that the African Children's Committee did not exist yet at the time that the African Court Protocol was discussed and adopted.⁴⁰

Nevertheless, the African Court Protocol includes “African intergovernmental organisations” in its list of entities with the power to directly access the court. On this basis, the African Children's Committee requested an advisory opinion from the Court on the question whether it could be considered as an African intergovernmental organisation for purposes of access. The Court decided that the Committee did not fit the definition of “intergovernmental organisation” because it is composed of experts who serve in their personal capacity rather than composed of member states or their representatives. Therefore, the Court could not grant the Committee standing to bring cases to the Court.⁴¹

However, the Court also made it clear in its 2014 advisory opinion that “it is in the interests of protection of rights on the continent that the Committee's mandate should be reinforced just as the African Commission's protective mandate is enhanced under the complementary relationship with the Court. Indeed, there does not appear to be a conceivable reason why the Committee was not included among the organs that can bring cases before the Court under Article 5(1) of the Protocol [...]”.⁴²

Over 10 years after the Court's advisory opinion, the situation has unfortunately yet to be remedied. Article 5 of the African Court protocol should be amended without further delay to specifically include the African Children's Committee on the list of institutions entitled to submit and transfer cases to the African Court.

³⁷ The African Commission on Human and Peoples' Rights and The African Court on Human and Peoples' Rights, Guidelines on submission and transfer of cases, 3 June 2025, <https://achpr.au.int/sites/default/files/files/2025-10/enguidelines-submission-and-transfer-cases-achpr-afchprfinal.pdf>

³⁸ African Charter on the Rights and Welfare of the Child, adopted in Addis Ababa in July 1990 and entered into force in November 1999

³⁹ Article 5 of the Protocol lists the following: the African Commission on Human and Peoples', states parties, African Intergovernmental organisations, and, in some instances in accordance with article 34(6) of the Protocol, individuals and NGOs with observer status before the African Commission, are entitled to submit cases.

⁴⁰ The African Children's Charter had already been adopted when the African Court protocol was being discussed and adopted in 1998. However, the African Children's Charter only came into force in 1999, after the African Court Protocol was adopted, and the African Children's Committee was created in accordance with article 32 of the African Children's Charter in 2001.

⁴¹ Advisory Opinion, Request by the African Committee of experts on the Rights and Welfare of the Child on the standing of the African Committee of Experts on the Rights and Welfare of the Child before the African Court on Human and Peoples' Rights, 5 December 2014, Request 002/2013, paras. 73-74

⁴² Ibid, paras 75

2.3 ACCESS BY STATES AND AFRICAN INTERGOVERNMENTAL ORGANISATIONS

Under article 5 of the African Court Protocol, States parties may bring cases to the African Court, with regards to pending complaints before the African Commission or with regards to a situation in which its citizens is a victim of human rights violations. In theory, the latter could concern cases of human rights violations against citizens of a state on the respondent state's territory, or a third state's territory, or the applicant state's own territory where it considers that another state is directly or indirectly responsible.

In practice, only a single case has ever been filed at the Court by a state. In August 2023, the Democratic Republic of Congo filed a complaint against Rwanda. At the time of writing of this report, the Court had ruled that it had jurisdiction and that the complaint was admissible,⁴³ but the case has not yet been examined on the merits.

Under Article 5 of the African Court Protocol, African Intergovernmental organisations are also entitled to submit cases to the Court. In practice, there has not been a single case brought to the African Court by an African intergovernmental organization to date.

2.4 ACCESS TO REQUEST ADVISORY OPINIONS

The African Court Protocol provides in its Article 4(1) that: “Member State of the African Union, the African Union, any of its organs, or any African organisation recognized by the African Union” are entitled to request an advisory opinion from the Court. The subject matter of any opinion by the Court must not relate to “a matter being examined by the Commission.” In 20 years, only NGOs and AU bodies have requested, or attempted to request, advisory opinions from the African Court. No state has ever sought to utilize the Court's advisory jurisdiction (see section 3.6).

The Court has adopted a restrictive interpretation of the category “African organisations recognized by the African Union” as provided for in Article 4(1) of the Protocol, drastically limiting the number of organisations, NGOs especially, which can request an advisory opinion to the Court. In a series of 2017 decisions,⁴⁴ the Court acknowledged that the drafters of the Protocol “aimed at giving wide access to the Court by ‘African organisations’” and that the expression “African organisations” covers both IGOs and NGOs.⁴⁵ However, the Court considered that “only African NGOs recognized by the African Union as an international organization with its own legal personality are covered by [Article 4 of the Protocol] and may bring a request for advisory opinion before the Court.”⁴⁶ In saying so, the Court rejected the submission that having the observer status before the African Commission, an AU body, was a form of recognition by the AU. According to the Court, with regards to NGOs, the power to request advisory opinions only goes to organisations which have been granted observer status by the AU Executive Council, or which have a Memorandum of Understanding with the AU.⁴⁷

Excluding NGOs with observer status before AU bodies other than the Executive Council has unnecessarily prevented the Court from providing advisory opinions on various human rights issues. Expanding the number of African organisations allowed to request guidance on the interpretation of the African Charter, in the spirit of giving wide access to the Court, can only give more opportunities for the Court to provide guidance and, in turn, would strengthen the Court's mandate of protecting human rights on the continent.

⁴³ Ruling, *Democratic Republic of Congo v. Rwanda*, 26 June 2025, Application 007/2023

⁴⁴ The jurisprudence was established first in: Advisory Opinion, Request for advisory opinion by the Socio-Economic Rights and Accountability Project (SERAP), 26 May 2017, Request 001/2013.

It was followed by three other decisions issued later in the same year, quoting and confirming the jurisprudence established in the above decision: Advisory Opinion, Request by the Centre for Human Rights from the University of Pretoria and the Coalition of African Lesbian, 28 September 2017, Request 002/2015; Advisory Opinion, Request by the Centre for Human Rights of the University of Pretoria, Federation of Women Lawyers Kenya, Women's Legal Centre, Women Advocates Research and Documentation Centre and Zimbabwe Women Lawyers Association, 28 September 2017, Request 001/2016; Advisory Opinion, Request by l'Association Africaine de Defense des Droits de l'Homme, 28 September 2017, Request 002/2016

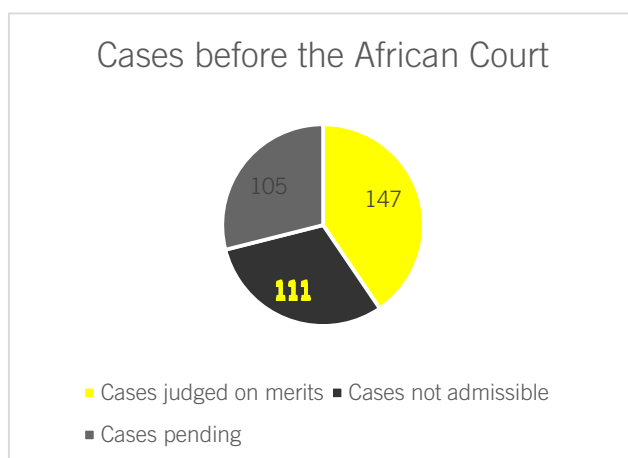
⁴⁵ Advisory Opinion, Request for advisory opinion by the Socio-Economic Rights and Accountability Project (SERAP), 26 May 2017, Request 001/2013, paras 46-47

⁴⁶ Ibid, para. 53

⁴⁷ Ibid, paras 60-64

3. A SNAPSHOT OF TWO DECADES OF THE COURT'S CASE DOCKET

3.1 OVER 250 CASES FINALISED



In its 20 years of existence, the Court has received 363 complaints. Over 250 of these cases have been finalized, including almost 150 judgments on the merits. It has rejected or struck out a little over 100 complaints. Around 100 cases are still pending.⁴⁸

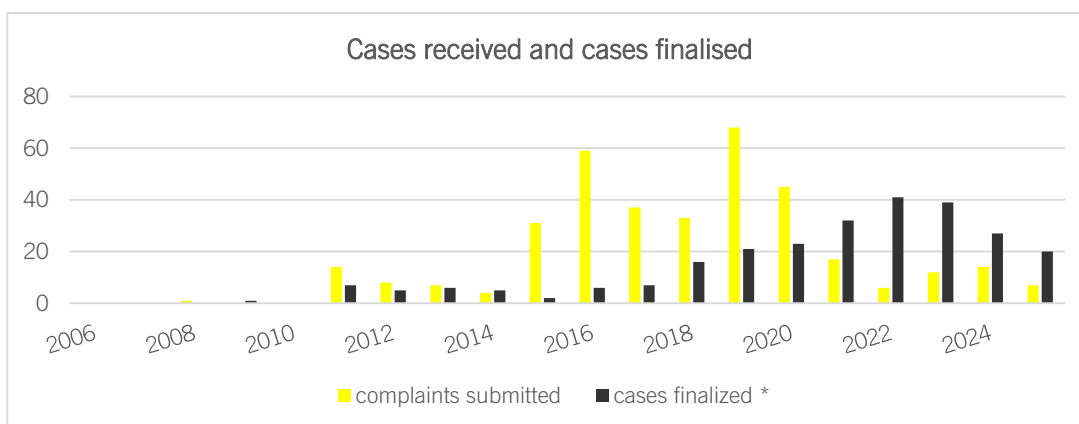
During the first decade, between 2006 and 2015, the Court had very little judicial activity – in the first 5 years the Court was finalizing its operationalization and received no complaints. In the following five years, it received only a few.

However, the number of complaints received by the Court increased

thereafter. It was the highest between 2015 and 2020, with over 30 received each year and up to 59 and 68 in 2016 and 2019 respectively. This was followed by an increase in the number of cases finalized by the court between 2019 and 2025, with between 20 and 40 cases finalized each year.

As of January 2026, the Court had finalized 258 cases. But the number of complaints received by the Court on average per year has slowed down after 2020, mainly due to the effect of Tanzania, Benin and Côte d'Ivoire's withdrawals of their Article 34(6) declarations. This trend of decrease of number of cases examined per year is expected to continue for the next few years.

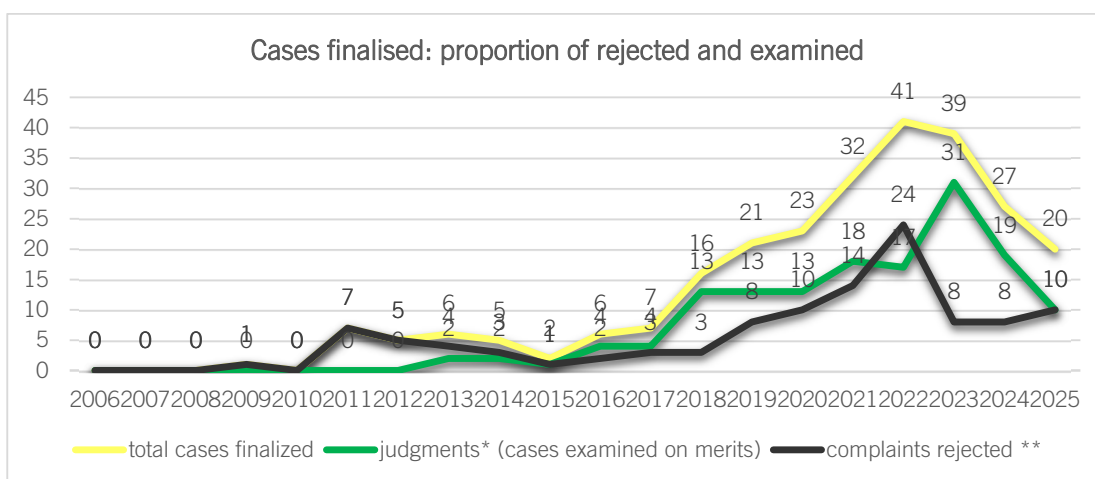
⁴⁸ Note that all the numbers provided in this chapter are based on an analysis of the Court's work from 1 January 2006 to 1 January 2026.



3.2 HIGH NUMBER OF INADMISSIBLE COMPLAINTS

On receiving a complaint, the Court first examines whether it has jurisdiction (material, personal, territorial and temporal)⁴⁹ over the case and whether the complaint fulfils the admissibility criteria set out in Article 56 of the African Charter.⁵⁰ Only if it concludes positively on jurisdiction and admissibility, can the Court examine the merits of the case and determine whether there is one or several violation(s) of human rights as alleged by the complainant and, if so, how the state should remedy it.

In the 20 years of the Court's existence, a sizeable proportion of complaints have been rejected before being examined on the merits (111 out of 363 complaints), most often on the basis that the complaints were not admissible.



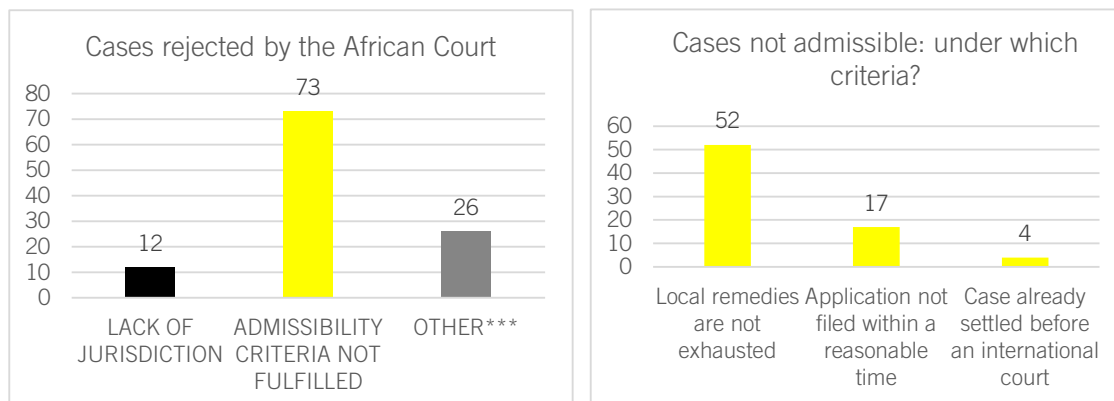
* When judgments on merits and judgments on reparations were issued at different dates, judgments on merits are reflected here.

** Complaints rejected before being examined on merits include: complaints struck out, found not admissible, not falling under the Court's jurisdiction, or for a few in the very early years of the Court, transferred to the Commission.

⁴⁹ When a case is brought against a state, it must concerned (i) alleged violations of the Charter or other human rights instrument ratified by the concerned state (material jurisdiction); (ii) which occurred after the state has ratified the African Charter and the Protocol establishing the Court, or is a continuing violation (temporal jurisdiction); (iii) which occurred on the territory of the state, although in some cases it can also concern violations outside of the state's territory if imputable to the state (territorial jurisdiction), and (iv) the case is brought by someone or an organisation which is authorised to do so, that is a state party, or the African Commission on Human and Peoples' Rights, or an African intergovernmental organisation, or if the state has deposited a 34(6) declaration and the violation occurred after such deposit, individuals and NGOs (personal jurisdiction).

⁵⁰ Article 56 provides the 7 criteria for a communication to be admissible before the Commission or the Court: it must (1) indicate their authors, (2) be compatible with the AU Charter and the African Charter, (3) not being written in disparaging or insulting language directed against the state, its institutions or the AU, (4) not being based exclusively on new disseminated through the mass media, (5) be sent after exhausting local remedies, if any, unless it is obvious that the domestic procedure is unduly prolonged, (6) be submitted within a reasonable period from the time local remedies are exhausted, and (7) not being a case already settled before another international court or body.

In particular, 73 out of the 111 rejected cases were declared inadmissible, and more specifically, because local remedies were not exhausted (close to half of the total of cases rejected). The proportion of non-admissible complaints is particularly high in certain countries. In relation to Mali, for example, there have been only 9 cases examined on the merits compared to 14 cases declared inadmissible.



*** the category 'other' includes mainly cases struck out (because the applicant withdraws its application, or the court is unable to communicate with them, for instance).

This high number of cases declared inadmissible may be due to a lack of knowledge or of proper understanding of the admissibility criteria. The African Court has been careful in ensuring that states have had the opportunity to examine and remedy human rights violations before they are brought to the Court. In this context, the Court serves as a regional human rights court that provides access to justice for victims of human rights violations in cases where it can be shown that a state's domestic judicial system has failed to address specific violations. Nevertheless, the Court has developed a flexible admissibility criteria, in particular allowing for certain exceptions to the rule of exhaustion of local remedies when these remedies are inexistent or inefficient,⁵¹ or assessing the notion of reasonable time for filing on a case-by-case basis and taking into account the personal circumstances of the applicant.⁵²

⁵¹ Examples of cases in which the Court found that domestic remedies were not available or were inefficient: Judgment, *Konate v. Burkina Faso*, 15 December 2014, Application 004/2013; Judgment, *APDH v. Cote d'Ivoire*, 18 November 2016, Application 001/2014; Judgment, *APDF and IHRDA v. Mali*, 11 May 2018, Application 046/2016; Judgment, *Kennedy Gihanna and others v. Rwanda*, 28 November 2019, Application 017/2015; Judgment, *Jebra Kambole v. Tanzania*, 15 July 2020, Application 018/2018; Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019; Judgment, *LIDHO and others v. Cote d'Ivoire*, 5 September 2023, Application 041/2016; Judgment, *CHR and others v. Tanzania*, 5 February 2025, Application 019/2018; and others.

Examples of cases in which the Court found that exhaustion of local remedies was not required because domestic proceedings had been unduly prolonged: Judgment, *Norbert Zongo v. Burkina Faso*, 28 March 2014, Application 013/2011; Judgment, *Wilfred Onyango Nganyi and nine others v. Tanzania*, 18 March 2016, Application 006/2013; Judgment, *ACHPR v. Kenya*, 26 May 2017, Application 006/2012; Judgment, *Mgosi Mwita Makungu v. Tanzania*, 7 December 2018, Application 006/2016; Judgment, *Andrew Ambrose Cheusi v. Tanzania*, 26 June 2020, Application 004/2015; Judgment, *Robert Richard v. Tanzania*, 2 December 2021, Application 035/2016.

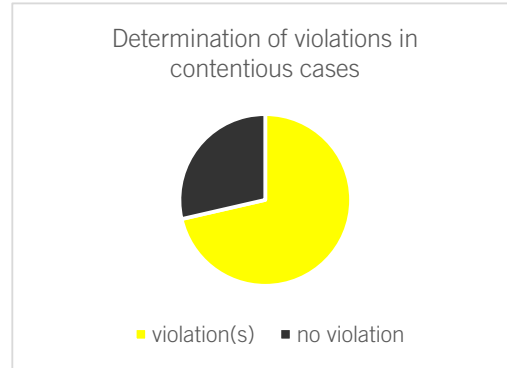
⁵² The Court has for instance found that several years between the last decision at the domestic level and the submission of a complaint before the African Court may be reasonable when the applicant is indigent, incarcerated and/or had no knowledge about the existence of the Court: see Judgment, *Alex Thomas v. Tanzania*, 20 November 2015, Application 005/2013 (over 3 years); Judgment, *Christopher Jonas v. Tanzania*, 28 September 2017, Application 011/2015 (over 5 years); Judgment, *Amiri Ramadhani v. Tanzania*, 11 May 2018, Application 010/2015 (over 5 years); Judgment, *Werema Wangoko Werema and Waisiri Wangoko Werema v. Tanzania*, 7 December 2018, Application 024/2015 (over 5 years); Judgment, *Kenedy Ivan v. Tanzania*, 28 March 2019, Application 025/2016 (over 4 years). In other cases, the Court found the complaint inadmissible if a period of several years before submitting the complaint was not justified by the circumstances of the applicant: see Ruling, *Godfrey Anthony and Ifunda Kisite v. Tanzania*, 26 September 2019, Application 015/2015; Ruling, *Livinus Daudi Manyuka v. Tanzania*, 28 November 2019, Application 020/2015; Ruling, *Fidele Mulindahabi v. Rwanda*, 4 July 2019, Application 006-007-009/2017.

3.3 FINDINGS OF VIOLATIONS

If a case is found admissible, the Court then examines the merits of the case to determine whether the state concerned did, or did not, violate human rights protected by the African Charter or any other human right treaty ratified by the said state.

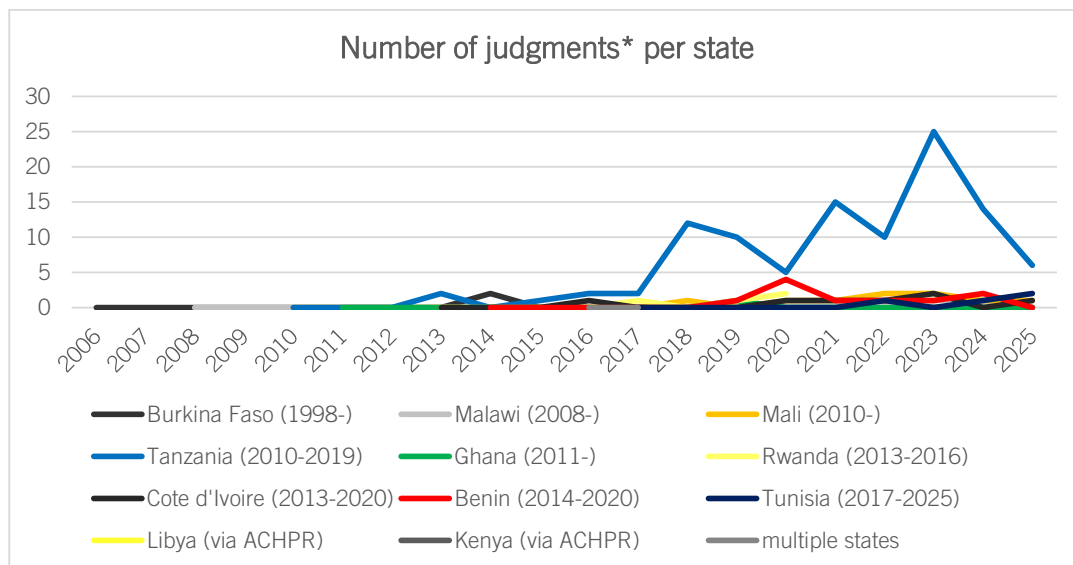
The Court found that the state had not violated its human rights obligations in close to a third of the cases brought to it. Out of 147 cases decided on merits, the Court found one or several human rights violations in 105 cases and no violation in 42 cases.

In addition, it is noteworthy that in many of the cases where violations were found, the Court also rejected one or several allegations of human rights violations made by the complainant.



3.4 A HANDFUL OF RESPONDENT STATES

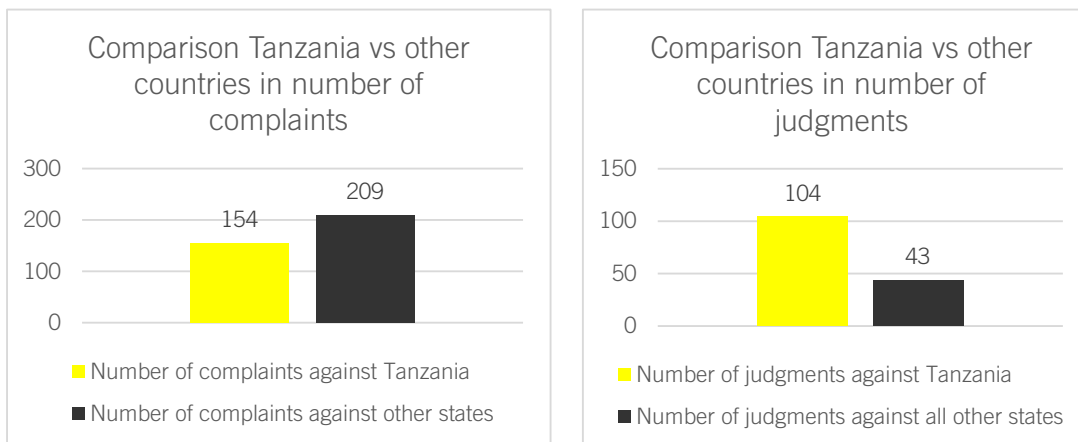
As stated above, the Court has delivered judgments in almost 150 cases in its 20 years of existence. These judgments concern only a few states (11 in total), including an overwhelming majority of cases against Tanzania - a very small number of states in comparison with the 55 AU member states or the 34 States Parties to the African Court Protocol. This is largely explained by the fact that cases can only be brought by individuals and NGOs against states which have deposited the Article 34(6) declaration.⁵³ This is coupled by the fact that other entities that can file cases at the Court, including states and the African Commission, have rarely done so as described above (only two cases – see Chapter 2 above). The reach of the Court's jurisprudence is therefore first and foremost shaped by the limits in who can access the Court.



* When judgments on merits and judgments on reparations were issued at different dates, judgments on merits are reflected here. Cases found not admissible are not included in this graph.

⁵³ From the date of that deposit, and until one year after the declaration is withdrawn if the state has withdrawn it.

The proportion of cases against Tanzania has dominated the totality of the cases at the Court. Complaints against Tanzania represent over 40% of the total number of complaints brought to the Court during the 20 years period (154 out of 363). Moreover, cases against Tanzania represent a majority of the cases examined on merits (104 out of 147),⁵⁴ with over two times more cases against Tanzania than cases against all other countries combined. It is followed by cases against Benin, Mali and Cote d'Ivoire with 10, 9 and 7 judgments on merits in total respectively, and finally barely a few other cases concerning a few other countries.



An active Article 34(6) declaration is a prerequisite for the possibility of bringing cases directly to the Court, but it does not necessarily mean that people will make use of this possibility. For instance, in Burkina Faso, two cases were brought very early on in the Court's existence which led to two landmark decisions which were implemented by the state, but despite these early successes, there has barely been any new complaint brought against Burkina Faso since. Malawi and Ghana have deposited their declarations in 2008 and 2011 respectively, however there have been 3 and 1 cases examined on merits respectively, against these two states to date. Guinea Bissau, Niger, Gambia have deposited their declarations more recently, although still at least 5 years ago for each of them, nevertheless one is yet to see one single case against these states.

3.5 PREVALENT THEMES IN THE COURT'S JURISPRUDENCE

The African Court determines the interpretation or application of any human right – be they civil and political rights, economic, social and cultural rights, or individual and collective rights. Given that most cases brought to the Court to date have been filed by individuals and NGOs, the Court's jurisprudence in its first 20 years has been shaped by who knows and uses the Court, especially from the states which permit direct access to the Court.

Analysis of the human rights issues dealt with by the Court potentially provides an indication on the priorities in the concerned countries and/or which individuals or communities have had knowledge of or access to the court.

⁵⁴ One could expect that the proportion of Tanzanian cases would be equivalent in the number of complaints submitted to the African Court and in the number of cases examined by the Court. But it is not the case: the proportion of Tanzanian cases is higher in the number of cases examined by the court than in the number of complaints brought to the court. This is partly explained by the fact that the proportion of complaints non admissible among those brought against Tanzania is relatively low, compared to cases brought against other countries.

Prevalent themes in the Court's jurisprudence



- Cases on the Tanzanian criminal justice system
- Cases on elections-related matters
- Other cases judged on merits

In that regard, it is noteworthy that the overwhelming number of cases filed at the Court relate to the criminal justice system in Tanzania. Cases relating to election matters present another significant trend, cutting across several countries.

Other cases concern issues as diverse as the right to nationality, right to work, right to freedom of expression, women's rights in the family sphere, rights of indigenous peoples, right to health, etc. The Court's judgments on these issues present some of the most progressive developments for the protection and promotion of human rights on the continent (see Chapter 4 of this report).

3.5.1 FAIR TRIAL

The African Court has developed a comprehensive body of jurisprudence concerning the right to fair trial with a particular focus on the Tanzanian criminal justice system. Out of the 147 total cases examined on the merits by the African Court during its 20 years of existence, 92 concern the Tanzanian criminal justice system, representing 63% of all cases examined on the merits.

After the first case was brought on behalf of a convicted detainee, it quickly became a remedy known and commonly used by many defendants in criminal cases in Tanzania. Indeed, majority of the cases brought against Tanzania, 92 cases out of 104,⁵⁵ concern the Tanzanian criminal justice system and were mostly brought by individuals who had been convicted for serious offences and sentenced to imprisonment or to the death penalty.

The first case dealing with the Tanzanian criminal justice system is the 2015 *Thomas case*.⁵⁶ The Court specified that the right to a fair trial of defendants includes, among other aspects, the right to be present at one's own trial, the right to be heard, the right to be provided with court records in a timely manner, the right to appeal⁵⁷ and the right to be provided with legal aid. Following this first case, the Court reiterated in dozens of other cases⁵⁸ Tanzania's obligation to provide legal representation to individuals facing serious charges which carry severe punishment. The Court also elaborated on other aspects of the rights of an accused, building a strong and comprehensive body of jurisprudence relating to an accused person's rights in criminal cases. The Court has in this regard pronounced itself on the right to be tried within a reasonable time,⁵⁹ the right to be provided with interpretation,⁶⁰ the right to consular assistance for foreigners,⁶¹ and the right to request provisional release from pre-trial detention.

In parallel, the Court has also developed a body of jurisprudence on the right to dignity and the right to be free from torture and other ill-treatment for those arrested, prosecuted, or sentenced, including detainees.

⁵⁵ In total, in 20 years, 154 complaints were brought against Tanzania. As of 1 January 2026, 104 have been examined on merits and judged, among which 92 concern the criminal justice system, 19 have been found not admissible, 6 were struck out and 25 are still pending.

⁵⁶ Judgment, *Alex Thomas v Tanzania*, 20 November 2015, Application 005/2013

⁵⁷ See also: Judgment, *Benedicto Daniel Mallya v. Tanzania*, 26 September 2019, Application 018/2015

⁵⁸ A few recent examples, among many more: Judgment, *Bahati Mtega and Flowin Mtweve v. Tanzania*, 26 June 2025, Application 009/2019; Judgment, *Bonifance Alistedes v. Tanzania*, 5 February 2025, Application 025/2018; Judgment, *Kabalabala Kadumbagula and Daud Magunga v. Tanzania*, 4 June 2024, Application 031/2017; Judgment, *John Mwita v. Tanzania*, 13 February 2024, Application 044/2016; Judgment, *Hassan Bundala Swaga v. Tanzania*, 7 November 2023, Application 014/2017; Judgment, *Yassid Rashid Maige v. Tanzania*, 5 September 2023, Application 018/2017; etc.

⁵⁹ A few examples: Judgment, *Emmanuel Yusufu Noriega v. Tanzania*, 26 June 2025, Application 013/2018 (trial duration over 10 years is not reasonable); Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, 3 September 2024, Application 015/2016 (over 6 years between arrest and start of trial is unreasonable length of time); Judgment, *Yassin Rashid Maige v. Tanzania*, 5 September 2023, Application 018/2017 (4 years to finalise a trial is not unreasonable given the complexity of the case); Judgment, *Robert Richard v. Tanzania*, 2 December 2021, Application 035/2016 (appeal still pending 7 years after the appeal was filed is unreasonable delay); Judgment, *Amini Juma v. Tanzania*, 30 September 2021, Application 024/2016 (commencement of the trial over 4 years after the defendant was charged with murder is unreasonable delay); Judgment, *Benedicto Daniel Mallya v. Tanzania*, 26 September 2019, Application 018/2015 (delay of 15 years before the conviction in first instance is reexamined is unreasonable)

⁶⁰ Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, 3 September 2024, Application 015/2016

⁶¹ Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, 3 September 2024, Application 015/2016; Judgment, *Nzigiyimana Zabron v. Tanzania*, 4 June 2024, Application 051/2016

The Court found violations of such rights in the failure to provide food on a regular basis to detainees⁶² or other deplorable detention conditions,⁶³ the conduct of an anal search in the presence of family members,⁶⁴ and corporal punishment such as cane strikes.⁶⁵ The Court has also found that Tanzania violated its human rights obligations when it failed to investigate allegations or suspicions of ill-treatment of accused persons.⁶⁶ According to the African Court, the prohibition of torture and other ill-treatment is absolute. Such prohibition must be interpreted to extend to the widest possible array of physical or mental abuses. Additionally, the Court has held that personal suffering and indignity can take various forms and must be assessed depending on the circumstances of each case.⁶⁷

With regards to individuals sentenced to a death sentence, beyond the fact that the Court established that mandatory death penalty violates the right to life (see Section 4.4 below), the Court has also found that hanging as a method of execution⁶⁸ is inherently inhumane and violates the prohibition of torture and other ill-treatment, as well as prolonged time in death row.⁶⁹

In judgment after judgment, the Court has developed in great detail how Tanzania should reform its laws and its practices to ensure that individuals prosecuted or convicted by the courts Tanzania, regardless of what they are accused or found guilty of, are tried fairly and treated humanely from the time of their arrest to the completion of their sentencing. Although the Court's judgments on fair trial have been issued mainly against Tanzania, the Court's guidance on how to interpret this right in criminal proceedings should be followed and applied by all states parties to the African Charter.

3.5.2 ELECTIONS AND THE RULE OF LAW

A significant portion of the Court's body of jurisprudence deals with election-related matters, rule of law, and the right of individuals to freely participate in the government of their country. Most of these cases were brought by politicians, but also sometimes by NGOs or human rights defenders. The first of these cases is the case of *Mtikila, Tanganyika Law Society and the Legal and Human Rights Centre v. Tanzania*.⁷⁰ In total, the court has issued 18 judgments on the merits, one advisory opinion, and several orders for provisional measures on election-related matters. These cases concern multiple states: Tanzania, Benin, Cote d'Ivoire, Mali, Tunisia, Malawi, and to some extent, Rwanda.

Through its jurisprudence in these cases, the Court has established that certain criteria of exclusion of individuals wishing to run for elections violates the African Charter⁷¹: in particular, independent candidates (not affiliated to political parties),⁷² candidates emerging from alliances between political parties,⁷³ or candidates living abroad because they had no choice but to flee their country⁷⁴ should be allowed to run for elections. However, restrictions to the right to vote or to be elected can be permitted if they are based on law, pursuing a legitimate aim and striking a reasonable balance of necessity and proportionality, such as barring

⁶² Judgment, *Armand Guehi v. Tanzania*, 7 December 2018, Application 001/2015

⁶³ Judgment, *Nzigiimana Zabron v. Tanzania*, 4 June 2024, Application 051/2016 (states must provide prisoners with "necessary conditions of a dignified life, including food, water, adequate ventilation, an environment free from disease and adequate healthcare"); Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, 3 September 2024, Application 015/2016

⁶⁴ Judgment, *Lucien Ikili Rashidi v. Tanzania*, 28 March 2019, Application 009/2015

⁶⁵ Judgment, *Lucien Ikili Rashidi v. Tanzania*, 28 March 2019, Application 009/2015

⁶⁶ Judgment, *Bahati Mtega and Flowin Mtweve v. Tanzania*, 26 June 2025, Application 009/2019; Judgment, *Kabalabala Kadumbagula and Daud Magunga v. Tanzania*, 4 June 2024, Application 031/2017; Judgment, *Yassid Rashid Maige v. Tanzania*, 5 September 2023, Application 018/2017

⁶⁷ Judgment, *Emmanuel Yusufu Noriega v. Tanzania*, 26 June 2025, Application 013/2018 (judicial officers observed wounds on the defendant's mouth and abdomen but failed to investigate); Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, 3 September 2024, Application 015/2016 (the defendants had raised that they had been beaten by police officers after their arrest)

⁶⁸ Judgment, *Alex Thomas v. Tanzania*, 20 November 2015, Application 005/2013; and all judgments mentioned above in footnotes 63 to 67.

⁶⁹ The Court reiterated this finding in over 20 cases. A few examples: Judgment, *Emmanuel Yusufu Noriega v. Tanzania*, 26 June 2025, Application 013/2018; Judgment, *Chrizant John v. Tanzania*, 7 November 2023, Application 049/2016; Judgment, *Amini Juma v. Tanzania*, 30 September 2021, Application 024/2016; Judgment, *Ally Rajabu and others v. Tanzania*, 28 November 2019, Application 007/2015

⁷⁰ Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, 3 September 2024, Application 015/2016; Judgment, *Nzigiimana Zabron v. Tanzania*, 4 June 2024, Application 051/2016; Judgment, *Makungu Misalaba v. Tanzania*, 7 November 2023, Application 033/2016

⁷¹ Judgment, *Reverend Christopher R. Mtikila, Tanganyika Law Society and the Legal and Human Rights Centre v. Tanzania*, 14 June 2013, applications 009/2011 and 011/2011

⁷² Including violation of article 13 (right to participate freely in the government of one's country), article 10 (right to freedom of association), article 2 (right not to be discriminated against) and/or article 3 (equality before the law)

⁷³ Judgment, *Reverend Christopher R. Mtikila, Tanganyika Law Society and the Legal and Human Rights Centre v. Tanzania*, 14 June 2013, applications 009/2011 and 011/2011; Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019

⁷⁴ Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019

people who had been convicted of criminal charges or those under a certain age.⁷⁵ The African Court has also provided guidance on how to assess and ensure the independence and impartiality of electoral bodies, specifying for instance that such bodies must have administrative and financial autonomy and a balanced composition, in order to protect the right of all citizens to freely participate in the government of their country.⁷⁶ In addition, the Court's jurisprudence has reinforced the protection of the rights of candidates in elections to participate in electoral campaigns,⁷⁷ to be safe during these campaigns,⁷⁸ to monitor voting operations⁷⁹ and to challenge results of elections before the courts.⁸⁰ The Court has also stated in another case that dissolving a legislative body, regardless of the reason for it, must be accompanied by measures to organize legislative elections as soon as possible.⁸¹

Finally, following a request for an advisory opinion, the Court has issued comprehensive guidelines on the organization of elections, or the absence or postponement of elections, in times of health emergency such as the Covid pandemic. Among other things, the Court has determined that for a state to postpone elections because of a public health emergency, it must: (a) consult with health authorities, political actors and civil society before making the decision to postpone; (b) be done in accordance with a law defining the conditions for postponing elections; (c) be declared through a general law; and (d) be done only as a last resort measure and not used to undermine the obligation of regular legitimization of the elected officials.⁸²

The Court's jurisprudence in election-related cases has often also dealt with other aspects more broadly related to the rule of law, the separation of powers, or the right to a remedy. On several occasions, the Court has found that states had violated their obligations under the African Charter⁸³ because one could not bring their matter before a domestic court or because domestic courts could not be considered independent.

In Benin, the Court concluded that a law granting amnesty for all individuals involved in the post-electoral violence violated the right to justice for victims of police violence and asked the state to repeal it.⁸⁴ The Court has also ordered the Beninese state to modify the membership of the committee in charge of managing judges' careers to end the control exercised by the Executive power over the judiciary.⁸⁵

In Mali, the African Court found the Constitutional Court was not independent, and it ordered the amendment of the laws governing the Constitutional Court to include provisions on the procedure for recusal of judges and on procedural safeguards of adversarial proceedings,⁸⁶ while on the contrary the Court found that Cote d'Ivoire had appropriately guaranteed the independence of its Constitutional Court.⁸⁷ In Tunisia, the Court took note that a Constitutional Court was created on paper in 2015 but it had not been operationalized years later, therefore creating a legal vacuum and depriving people in Tunisia from having a judicial avenue. Therefore, the Court ordered Tunisia to operationalize its Constitutional Court without further delay.⁸⁸ Moreover, the court found that a 2022 presidential decree empowering Tunisia's President to dismiss judges violated the independence of the judiciary and should be repealed.⁸⁹ Through this jurisprudence, the Court has sought to protect the separation of powers and to ensure that neither the executive nor the legislature interferes, directly or indirectly, in the judiciary's decision making power, in accordance with states' obligation to guarantee the independence of their courts under article 26 of the African Charter.

⁷⁵ Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019; Judgment, *Laurent Gbagbo v. Cote d'Ivoire*, 26 June 2025, Application 025/2020

⁷⁶ Judgment, *Actions pour la Protection des Droits de l'Homme (APDF) v Cote d'Ivoire*, 18 November 2016, Application 001/2014 ; Judgment, *XYZ v. Benin*, 27 November 2020, Application 059/2019 ; Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019 ; Judgment, *Suy Bi Gohore Emile and Others v Cote d'Ivoire*, 15 July 2020, Application 044/2019 ; Judgment, *Oumar Mariko v Mali*, 24 March 2022, Application 029/2018 ; Judgment, *Houngue Eric Noudehouenou v. Benin*, 1 December 2022, Application 028/2020 ; Judgment, *Bob Chacha Wangwe and Legal and Human Rights Centre v Tanzania*, 13 June 2023, Application 011/2020

⁷⁷ Order for provisional measures, *Guillaume Kigbafori Soro and others v Cote d'Ivoire*, Application 012/2020

⁷⁸ Judgment, *Kouassi Kouame Patrice and Baba Sylla v Cote d'Ivoire*, 22 September 2022, Application 015/2021

⁷⁹ Judgment, *Kouassi Kouame Patrice and Baba Sylla v Cote d'Ivoire*, 22 September 2022, Application 015/2021; Advisory opinion on the right to participate in the government of one's country in the context of an election held during a public health emergency or a pandemic, such as the covid-19 crisis, 16 July 2021, Request 001/2020 by the Pan African Lawyers Union (PALU)

⁸⁰ Judgment, *Jebra Kambole v Tanzania*, 15 July 2020, Application 018/2018; Judgment, *Symon Vuwa Kaunda and others v Malawi*, 5 September 2023, Application 013/2021

⁸¹ Judgment, *Samia Zorgati v. Tunisia*, 13 November 2024, Application 016/2021

⁸² Advisory opinion on the right to participate in the government of one's country in the context of an election held during a public health emergency or a pandemic, such as the covid-19 crisis, 16 July 2021, Request 001/2020 by the Pan African Lawyers Union (PALU)

⁸³ including violations of article 7 (right to have one's cause heard) or article 26 (duty to guarantee the independence of the courts)

⁸⁴ Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019

⁸⁵ Judgment, *Sebastien Germain Marie Aikoue Ajavon v. Benin*, 4 December 2020, Application 062/2019 ; Judgment, *Houngue Eric Noudehouenou v. Benin*, 1 December 2022, Application 028/2020

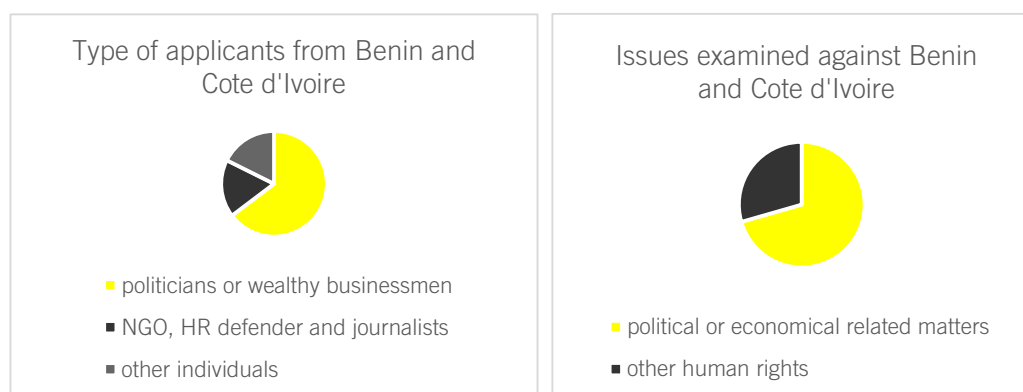
⁸⁶ Judgment, *Oumar Mariko v Mali*, 24 March 2022, Application 029/2018

⁸⁷ Judgment, *Kouassi Kouame Patrice and Baba Sylla v Cote d'Ivoire*, 22 September 2022, Application 015/2021

⁸⁸ Judgment, *Ibrahim Ben Mohamed Ben Ibrahim Belguith v. Tunisia*, 22 September 2022, Application 017/2021; Judgment, *Samia Zorgati v. Tunisia*, 13 November 2024, Application 016/2021

⁸⁹ Judgment, *Samia Zorgati v. Tunisia*, 13 November 2024, Application 016/2021

In Benin and Cote d'Ivoire, the majority of cases brought before the African Court relate to election-related matters (6 out of 10 judgments on merits, and 4 out of 7, against Benin and Cote d'Ivoire respectively). In fact, most cases in these two countries were brought by male politicians or wealthy businessmen, and mostly relate to their own political and/or economic interests.⁹⁰



⁹⁰ Out of 17 judgments on merits against Benin and Cote d'Ivoire combined, 11 of these cases were brought by politicians or wealthy businessmen, among these 11 cases 9 of them relate to election or democracy related matters while 2 mainly concern business or property related matters. Then 3 cases were brought by NGO or HR defenders (concerning also election matters, the protection of the environment and right to health, and equality between men and women) and 3 by other individuals (mainly concerning fair trial rights and the right to nationality).

WOMEN AT THE AFRICAN COURT

Women represent less than 3% of the totality of the applicants who have brought cases to the Court in its 20 years of existence.⁹¹ Where they have the right to directly access the Court, women extremely rarely seek remedy at the African Court. In some countries where an Article 34(6) was deposited, both men and women have not been using the Court (see section 3.4 above). In other countries where an Article 34(6) was deposited, such as Tanzania, Cote d'Ivoire or Benin in which many complaints were brought to the African Court before these states withdrew such declaration, it is noteworthy that almost all of these cases were brought by men, while women for the most part had not make use of the possibility to submit complaints to the Court.⁹²

Challenges and barriers to women's effective exercise of their right to access justice has been documented worldwide, including on the African continent. There are multiple and intersecting obstacles. Among them, lack of knowledge of their rights, unavailable legal aid, implicit gender bias within the justice system and deep-rooted social attitudes and practices may prevent women to act or may impact the willingness of communities and key actors within the judicial system to support women who wish to litigate.⁹³ The low number of complaints brought to the African Court by women should be understood in this broader context, especially as the African Court is an avenue for remedy only after exhaustion of remedies at the domestic level. Concerned states, the African Court and civil society organisations should ensure that women are informed of their right to access the African Court where applicable, and are able to effectively exercise this right, should they want to.

Increasing the number of cases brought by women at the Court would also have a positive impact on the Court's jurisprudence, by giving more opportunities for the Court to look into human rights violations against or affecting women. To date, the Court has only issued one judgment dedicated to women's rights in the APDF and IHRDA case against Mali.⁹⁴ The Court has unfortunately missed opportunities to examine issues specifically affecting women on other two occasions : with regards to women's right to give their surname to one's child,⁹⁵ and with regards to the issue of adultery charges brought against women.⁹⁶

NGOs and the Court have sometimes made a conscious effort to highlight gender-specific aspects in relation to broader human rights violations. For instance, the case concerning the rights of persons with albinism (see section 4.7 below) recognized the exacerbation of discrimination against women when they are mothers of children with albinism.⁹⁷ Another example is the advisory opinion on vagrancy laws (see section 4.5 below) in which the Court incorporated an analysis of how vagrancy laws have specifically targeted or have disproportionately affected women, including victims of domestic violence, sex workers, poor and marginalized women, and therefore violate the Maputo protocol.⁹⁸ These growing efforts are, hopefully, incremental steps towards a more systematic inclusion of a gender lens into all human rights issues at the African Court.

In parallel, gender parity among the judges is a requirement embedded in the rules governing the African Court.⁹⁹ The Court is composed of 11 judges, and in practice the Court has ensured that there is one man and one woman from each of the five regions of the continent¹⁰⁰ plus one eleventh 'floating' seat. Such track record is a model for gender representation in comparison with other regional or international courts worldwide, where female judges have historically been and are still largely underrepresented.

⁹¹ Among 147 cases decided on merits, 124 cases were brought by men, 4 cases by women, 7 cases by NGOs alone, and it is unclear for the remaining 12 cases (for instance due to large number of applicants, for which gender is not specified).

⁹² The Court itself recognizes this shortcoming and makes efforts to improve women's access. See for instance, the conference held in Arusha on 3 and 4 September 2025 on 'Enhancing women's engagement with the procedures of the African Court', <https://www.african-court.org/afchpr/african-court-to-host-conference-on-enhancing-womens-engagement-with-its-procedures/>

⁹³ Florence Butegwa, "Access to justice for women in Africa: Promising practices", Presentation at the Experts meeting in preparation for CSW70, 8-10 September 2025, <https://www.unwomen.org/sites/default/files/2025-12/csw-70-expert-group-meeting-expert-paper-florence-butegwa-en.pdf> ; IDLO, Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment, https://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Full_Report.pdf

⁹⁴ See section 4.3 of this report

⁹⁵ Judgment, *Glory Cyriaque Hossou v. Benin*, 13 November 2024, Application 012/2018 : In this case, the applicant challenged a law providing that only the father is entitled to give his surname to the child, but the Court considered the issue as moot due to the fact that, between the time of the submission of Hossou's complaint and the time of the judgment, the state had changed the law allowing both parents to choose the child's surname and give either the father's or the mother's or both surnames. The Court however is not restricted to only examine continuing violations, it has jurisdiction over past violations if committed after the state has ratified the Court's protocol and deposited its 34(6) declaration. The Court could have decided to provide its interpretation on this issue, whether men and women should

3.6 IMPLEMENTATION OF THE COURT'S DECISIONS

Implementation of decisions of the Court is extremely difficult to monitor, as states have rarely submitted the relevant information to the Court. Nevertheless, it appears quite evidently that implementation of the Court's orders and judgments is one of the major challenges for the African Court. The latest analysis by the Court shows that from inception to 31 December 2025, only two of the 104 cases in which the Court found a violation, representing 2% of the total cases, had been fully implemented.¹⁰¹ The Court recorded partial compliance in 10% of the cases. Partial compliance was recorded in Benin (three cases), Cote d'Ivoire (two cases), Kenya (one case), Tanzania and (four cases). In the rest of the cases, representing 88% of the total cases, the Court had not received any information on the status of their implementation.

As the above statistics show, full compliance with the Court's judgments is extremely low. The two landmark decisions against Burkina Faso, in the Zongo and Konate cases (see section 4.1 below), were fully implemented by the State, including compensating the victims, decriminalizing defamation, and reopening investigations to find those responsible for the murder of a journalist. Burkina Faso remains the only member state to have fully complied with the Court's judgments during its 20 years of operations. Cote d'Ivoire has modified the composition of its electoral body after the APDF judgment.¹⁰² Tanzania has adopted a new law on legal aid.

On the other hand, Tanzania has failed to comprehensively address the shortcoming identified by the Court to bring its criminal justice system in line with international standards. For instance, the state continues to fail to remove mandatory death penalty from its laws and to remove hanging as a method of execution of the death penalty. Kenya has barely made any efforts to implement the measures ordered to remedy the situation of the Ogiek people, not even the order requiring it to publish the judgment.¹⁰³ According to publicly available information, it would also appear that Cote d'Ivoire has not started to implement any of the measures ordered with regards to the environmental and health catastrophe caused by the dumping of toxic waste by the Trafigura's cargo ship.

At the request of the AU Executive Council, the African Court developed in 2018 a Draft Framework for Reporting and Monitoring Execution of the Judgments and Other Decisions of the African Court.¹⁰⁴ This Framework was submitted to the Executive Council in February 2019 for its consideration and adoption. Instead, the Executive Council directed that the Framework be forwarded for review to the AU Specialised Technical Committee (STC) on Justice and Legal Affairs. Seven years later, the STC has not yet finalized its consideration of the Framework.

both have the right to give their surname to their children under the African Charter and/or the Maputo protocol, and then take into account the fact that a new law had passed when decided on the operative part of the judgment.

⁹⁶ Judgment, *Elyssa v. Tunisia*, 4 December 2025, Application 061/2019: in this case, Elyssa was a woman involved in two parallel proceedings with her (ex) husband, one she initiated to obtain a divorce, and one he initiated thereafter accusing her of adultery. Elyssa argued that article 236 criminalizing adultery is unconstitutional, but she was unable to challenge the provision before domestic courts as the constitutional court in Tunisia had not been operationalised. The Court agreed that, on this point, because of the absence of constitutional court, it should be considered that Elyssa had exhausted local remedies. Nevertheless, in its examination of the merits, for incomprehensible reasons, the Court did not analyse Elyssa's allegations with regards to the compatibility of the adultery charge with human rights as protected under the Constitution or the African Charter. This denial of remedy is extremely surprising as it contradicts the Court's own jurisprudence in other cases, where it has analyzed the compatibility of domestic laws with the Charter when these laws could not be challenged before domestic courts, such as in the APDF and IHRDA case against Mali.

⁹⁷ Judgment, *Centre for Human Rights and Others v. Tanzania*, 5 February 2025, Application 019/2018, paras 7, 144-145 and 334-335

⁹⁸ Advisory opinion on the compatibility of vagrancy laws with the African Charter on Human and Peoples' Rights and Other Human Rights Instruments applicable in Africa, 4 December 2020, Request by the Pan African Lawyers Union (PALU) 001/2018, paras 52, 62, 129-130, 132-134, 138-140 and 155

⁹⁹ Protocol establishing the African Court, Article 12(2): "Due consideration shall be given to adequate gender representation in the nomination process" and Article 14(3): "In the election of the judges, the Assembly shall ensure that there is adequate gender representation"; African Union Executive Council, Decision on the Modalities on Implementation of Criteria for Equitable Geographical and Gender representation in the African Union Organs, 28 January 2016, Doc EX.CL/Dec.907(XXVIII), archives.au.int/bitstream/handle/123456789/3561/EX%20CL%20Dec%20907%20%28XXVIII%29%20_E.pdf?sequence=4&isAllowed=y. See also GQUAL Arusha Initiative, gqualcampaign.org/toolkit/human-right.html

¹⁰⁰ East, Central, North, South and West Africa.

¹⁰¹ African Court on Human and Peoples' Rights, Report on Status of Implementation of Decisions of the African Court 2025, Annex II, EX.CL/1660 (XLVIII), p. 5.

¹⁰² Judgment, *Actions pour la Protection des Droits de l'Homme (APDF) v Cote d'Ivoire*, 18 November 2016, Application 001/2014

¹⁰³ Order on compliance, 4 December 2025, *African Commission on Human and Peoples' Rights v Kenya*, Application 002/2012

¹⁰⁴ The Draft Framework is annexed to the Activity Report of the African Court on Human and Peoples' Rights, 1 January – 31 December 2018, Ex.CL/1126(XXXIV).

3.7 FEW ADVISORY OPINIONS

The African Court has issued 4 advisory opinions in its 20 years of existence. Two of them were issued at the request of AU bodies,¹⁰⁵ and two were issued at the request of NGOs.¹⁰⁶ In addition, two requests are still pending.

The Court had received more requests for advisory opinions,¹⁰⁷ but the majority of them were either dropped by those who initiated them or the Court found that the organisation requesting the opinion had no standing to do so (see section 2.4 of the present report above).

Advisory opinions, although few so far, can have a positive impact for the protection of human rights on the continent. They are addressed to all state parties to the African Charter, which should follow the Court's authoritative interpretation of the Charter. One of the advisory opinions already issued, concerning vagrancy laws, is one of the emblematic decisions of the first 20 years of the Court (see section 4.5 below), and based on pending¹⁰⁸ or future requests, future opinions might also play an important role in shaping the Court's jurisprudence.

¹⁰⁵ Advisory Opinion, on the application of the principle of regional rotation in the election of the Bureau of the PAP, 16 July 2021, Request by the Pan African Parliament (PAP) 001/2021; Advisory Opinion, Request by the African Committee of experts on the Rights and Welfare of the Child on the standing of the African Committee of Experts on the Rights and Welfare of the Child before the African Court on Human and Peoples' Rights, 5 December 2014, Request 002/2013

¹⁰⁶ Advisory opinion on the right to participate in the government of one's country in the context of an election held during a public health emergency or a pandemic, such as the covid-19 crisis, 16 July 2021, Request 001/2020 by the Pan African Lawyers Union (PALU); Advisory opinion on the compatibility of vagrancy laws with the African Charter on Human and Peoples' Rights and Other Human Rights Instruments applicable in Africa, 4 December 2020, Request by the Pan African Lawyers Union (PALU) 001/2018

¹⁰⁷ 17 requests for advisory opinions were submitted in total, 4 led to advisory opinions, 2 are still pending, and the other 11 were rejected without being examined.

¹⁰⁸ The four pending requests concern the compatibility of the death penalty with the African Charter; states' obligations with respect to the climate change crisis; states' obligations with respect to women's inheritance rights; and states' obligations with respect to individual criminal responsibility for serious human rights violations.

4. LANDMARK DECISIONS OF THE AFRICAN COURT

During its 20 years of existence, the African Court has issued several landmark decisions which have strengthened the promotion and protection of human rights in Africa. These decisions should have a significant impact on the people directly concerned as well as beyond, for all people facing similar violations within the same country or elsewhere on the continent.

NGOs have particularly played a crucial role in bringing cases and issues to the Court, enabling it to develop its body of jurisprudence and expand its human rights protection, especially for vulnerable or marginalized groups of people. Some of its landmark decisions deal with matters of particular concern in Africa (e.g., the human rights of persons with albinism or the human rights impact of hazardous waste) and for which there has never been an adjudication by an international human rights court before.

Civil society organisations and bar associations should continue to use the court in their strategic litigation initiatives and raise awareness about the Court's existing jurisprudence.

All states parties to the African Charter should take appropriate measures to ensure conformity with the African Court's jurisprudence, as a body entrusted with the interpretation of the Charter. When implemented, these Court's decisions change the lives of people - or even save lives. Below are seven examples of these landmark decisions, presented chronologically.

4.1 MEDIA FREEDOM IN BURKINA FASO: ZONGO AND KONATÉ CASES

In 2014, the Court issued two landmark decisions concerning journalists being killed or harassed in Burkina Faso. The first case was the Norbert Zongo case. On 13 December 1998, Norbert Zongo, an investigative journalist in Burkina Faso, his two collaborators and his younger brother, were assassinated. Their bodies were found charred in the car in which they were travelling together. The police arrived the same day at the scene of the crime, and the prosecutor arrived the next day. The Burkinabé judicial system was seized, and investigation began to determine the circumstances of the assassination. Zongo was investigating political, economic and social scandals, including the death of the driver of the brother of the president at the time. A suspect was charged in 2001. However, more than seven years after the opening of the investigation, in July 2006, the judge in charge of the case issued a dismissal order. Appeals by the Zongo family did not result in any change as the Burkinabé courts dismissed the case.

In December 2011, the Zongo family, accompanied by the NGO Burkinabe Movement for Human and Peoples' Rights (MBDHP), brought the case to the African Court. On 28 March 2014, the Court concluded¹⁰⁹ that the legal proceedings were abnormally prolonged for years and that the charges were dropped before the murderers were found and tried, and thus, Burkina Faso failed to bring justice to the

¹⁰⁹ Judgment, *Beneficiaries of late Norbert Zongo, Abdoulaye Nikiema alias Ablassé, Ernest Zongo and Blaise Ilboudo and the Burkinabé Human and Peoples' Rights Movement v. Burkina Faso*, 28 March 2014, Application 013/2011

relatives of Zongo, his two collaborators and his brother. In addition, the Court considered that Burkina Faso's failure to find and try the murderers of journalist Zongo also aroused fears and concerns in media circles, and that the State had thereby violated the right to freedom of expression for journalists who no longer felt protected.

The second case was the Konaté case. In August 2012, Lohé Issa Konaté, editor-in-chief of the newspaper “L’Ouragan”, wrote and published several articles denouncing and mocking an allegedly corrupted prosecutor. The said prosecutor then opened proceedings against him for defamation, public insult and contempt of court. Following this, a Burkinabé court convicted and sentenced Konaté to one year of imprisonment. The court also imposed a hefty fine and damages on him and suspended the newspaper for 6 months.

In June 2013, Konaté submitted a complaint to the African Court. On 15 December 2014, the Court issued its judgment¹¹⁰ and found that apart from serious and very exceptional circumstances,¹¹¹ violations of laws on freedom of speech and the media, such as defamation, should never be sanctioned by prison time. The Court recalled that restrictions to the right to freedom of expression must be provided by law, serve a legitimate purpose, be necessary and proportionate. In this regard, the Court concluded that the sanctions pronounced by the courts of Burkina Faso were all disproportionate.

Following the findings in these two cases, the Court ordered Burkina Faso to pay financial reparations to the wives, sons and daughters, fathers and mothers of Zongo and the other deceased for the psychological suffering they endured.¹¹² In the Konaté case, the Court ordered Burkina Faso to expunge all criminal convictions pronounced against Konaté, as well as to revise downwards the amount of fines and damages ordered against him and to pay financial reparations to him for compensation for loss of income and moral damage suffered.¹¹³ In addition, beyond these measures for the complainants, the Court also required Burkina Faso to resume investigations in order to seek, prosecute and judge those who murdered Zongo and his associates, and to change its law on defamation to repeal prison sentences for acts of defamation and to ensure that other sanctions for defamation meet the test of necessity and proportionality.

These two cases strengthened the positive and negative obligations of states under Article 9 of the African Charter on the right to freedom of expression, including media freedom. The cases reaffirmed that states must ensure that journalists can conduct their work safely, that they must genuinely investigate and prosecute those who threaten the lives of journalists, and that they cannot, under any circumstances, send a journalist to jail for defamation.

4.2 PROTECTING AN INDIGENOUS COMMUNITY IN KENYA: THE “OGIEK CASE”

In Kenya, the Mau forest is the ancestral home of an indigenous community called the Ogiek. The Ogiek community comprises 20,000 members, about 15,000 of whom inhabit the greater Mau Forest Complex, a land mass of about 400,000 hectares. The Ogieks are divided into clans, they have their own language and their own social norms and forms of subsistence. As a hunter-gatherer community, the Ogiek have for centuries depended on the Mau Forest for their residence and as a source of livelihood.

In October 2009, the Kenya Forestry Service ordered the eviction of the Ogiek community from the Mau Forest within 30 days. While the Kenyan government knew that the Ogieks had occupied lands in the Mau Forest since time immemorial, it had refused to recognize them as an indigenous population that needed to be protected.

The following month, the Centre for Minority Rights Developments (CEMIRIDE) and Minority Rights Group International (MRGI), two NGOs acting on behalf of the Ogiek community, submitted a complaint to the African Commission, which in turn transferred the case to the African Court in 2012.

¹¹⁰ Judgment, *Lohé Issa Konaté v. Burkina Faso*, 15 December 2014, Application 004/2013

¹¹¹ Such circumstances can be for example “incitement to international crimes, public incitement to hatred, discrimination or violence or threats against a person or a group of people, because of specific criteria such as race, colour, religion or nationality” (para 165 of the judgment)

¹¹² Judgment on reparations, *Beneficiaries of late Norbert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo and the Burkinabé Human and Peoples’ Rights Movement v. Burkina Faso*, 5 June 2015, Application 013/2011

¹¹³ Judgment on reparations, *Lohé Issa Konaté v. Burkina Faso*, 3 June 2016, Application 004/2013

On 26 May 2017, the Court reached a decision on the matter and found that Kenya had violated the rights of the Ogiek community.¹¹⁴ The Court said that Kenyan authorities should not have expelled the Ogieks from their ancestral lands against their will and should not have deprived them of disposing of the food produced by these lands. In doing so, they violated their right to land and their right to disposing of the wealth and natural resources of their land.

The Court also recognized that the evictions rendered it impossible for the Ogieks to continue their religious practices which are all linked to religious sites in the Mau Forest, and it greatly affected their ability to continue their traditions. On top of that, Kenya had not recognized the Ogiek as an indigenous community whereas they recognized other distinct communities such as the Maasai, and they had denied them special protection available to these other communities. The state had therefore discriminated against the Ogiek and denied their rights to freely exercise their religion and culture.

On 23 June 2022, the Court further ordered Kenya¹¹⁵ to pay compensation to the Ogiek for the material and moral prejudice they suffered, as well as to take all necessary measures, legislative and otherwise, to identify, delimit and title Ogiek ancestral land and to grant them collective title to such land. Where concessions or leases have already been granted over parts of this land, the Court ordered Kenyan authorities to commence consultation between the Ogiek and the other concerned parties in order to reach an agreement on returning such land or continuing their operations by way of lease or royalty and benefit sharing with the Ogiek. The Court also ordered Kenya to guarantee full recognition of the Ogiek as an indigenous people and to take all measures to protect the right of the Ogiek to be effectively consulted in respect of all development, conservation or investment projects on its land.

After years of struggle with the national authorities, the Ogiek were finally recognized as an indigenous community, having rights on the Mau forest and which religious and cultural specificities must be protected. For the NGOs that brought the case and for many observers,¹¹⁶ this is a historic case, which brings a “beacon of hope” for the advancement of rights of indigenous people or other minorities in Kenya and more broadly.

4.3 EQUALITY FOR WOMEN IN MARRIAGE AND INHERITANCE IN MALI: APDF AND IHRDA CASE

In 2011 in Mali, a new law, the Code of Persons and the Family, was adopted by the National Assembly and then promulgated by the President. This law allowed marriage for girls from the age of 16, and in certain circumstances, from the age of 15. In addition, the law recognized the validity of religious marriages which could be conducted between non-consenting persons, who could sometimes be minors, and in some cases could not even be present at their own wedding. This law also provided that Islamic law and custom applied in matters of inheritance, which meant that women received half of what male heirs received, and children born out of wedlock were to receive inheritance only if the parents decided so before they died.

The Association for the Progress and Defense of Women's Rights (APDF), a Malian NGO, as well as the Institute for Human Rights and Development in Africa (IHRDA), a pan-African NGO, explored domestic legal avenues for challenging the law in Mali. However, the Malian legal system does not provide for the possibility of challenging laws adopted by parliament, even if they are contrary to the constitution or to the treaties that the country had ratified. Therefore, the two NGOs directly submitted a complaint to the African Court in June 2016 to denounce the violations of the rights of women and children in Mali through the 2011 law.

In its judgment of 11 May 2018,¹¹⁷ the African Court concluded that the minimum age of marriage must be 18 for both men and women, that the free consent of those concerned must be compulsory, and that the right of women and all children to receive an inheritance indiscriminately should be protected. The Court

¹¹⁴ Judgment, *ACHPR v. Kenya*, 26 May 2017, Application 006/2012. The court found violations of articles 2 (right not to be discriminated against), 8 (right to freedom of conscience and religion), 14 (right to property), 17 (right to freedom of cultural life), 21 (right of people to dispose of their wealth and natural resources), and 22 (right of people to their economic, social and cultural development) of the African Charter.

¹¹⁵ Judgment on reparations, *ACHPR v. Kenya*, 23 June 2022, Application 006/2012

¹¹⁶ A few examples of reactions: IWGIA, “Ogiek Peoples win landmark reparations ruling”, 1 July 2022, <https://iwgia.org/en/news/4850-ogiek-peoples-win-landmark-reparations-ruling.html>; UN, “Kenya: UN expert hails historic ruling awarding reparations to Ogiek indigenous peoples”, 18 July 2022, <https://www.ohchr.org/en/press-releases/2022/07/kenya-un-expert-hails-historic-ruling-awarding-reparations-ogiek-indigenous>; MRG, “Ogiek win another landmark victory in African Court”, 23 June 2022, <https://minorityrights.org/ogiek-win-another-landmark-victory-in-african-court/>

¹¹⁷ Judgment, *Association pour le Progres et la Defense des Droits des Femmes Maliennes (APDF) and the Institute for Human Rights and Development in Africa (IHRDA) v. Mali*, 11 May 2018, Application 046/2016

emphasized that by ratifying the Protocol on the Rights of Women in Africa (Maputo Protocol)¹¹⁸ and the African Children's Charter,¹¹⁹ Mali had undertaken an obligation to eliminate practices and traditions that undermine the rights of women and children.

The African Court ordered Mali to modify the 2011 law within two years to bring it into line with its international obligations, as well as to take measures to inform, teach, educate and sensitize the populations on issues of equality in marriage and inheritance. The judgment has the potential to change the lives of thousands of women, girls and boys in Mali by contributing to the eradication of forced or child marriages and by ensuring fairness and non-discrimination in inheritance matters.

4.4 DEATH PENALTY IN TANZANIA: ALLY RAJABU CASE

Five Tanzanian men were sentenced to death in a domestic court following the murder of another man in 2011. In 2015, after unsuccessful appeals against their judgment and sentence, they brought their case to the African Court. They were still on death row in Tanzania when their case was examined.

The African Court found¹²⁰ that the five men had had a fair trial and there was no reason to reopen the question on whether they were guilty or not. However, the Court held that they should not have been automatically sentenced to death. Indeed, the Court determined that the Tanzanian law imposing a mandatory death penalty in cases of murder was arbitrary. It observed that mandatory death penalty contradicts fairness and judicial independence, and as a consequence, violated the right to life. The Court also held that hanging as a method for executing the death penalty amounts to cruel, inhuman and degrading punishment given the inherent suffering involved.¹²¹

The Court ordered Tanzania to rehear the case on the sentencing, so as to give full liberty to the Tanzanian court to decide whether to order the death penalty or whether to consider other punishment for these men. In addition, the Court ordered Tanzania to change its law and remove the mandatory imposition of the death penalty from its Penal Code.

This jurisprudence was reaffirmed by the African Court in more than 20 other cases following the Ally Rajabu case.¹²² Each time, the Court reiterated that the imposition of mandatory death penalty as a sentence for certain crimes is forbidden under the African Charter, as is hanging as a method for the execution of the death penalty.

The prohibition of mandatory death penalty, as violation of the right to life, is a landmark decision by the African Court. Amnesty International opposes the death penalty in all cases without exception. This judgment provides an important step forward in that regard. It has the potential to save the lives of people who would otherwise be sentenced to death regardless of their personal circumstances or the context in which a crime was committed.

The Court has been recently seized of a request for advisory opinion on the compatibility of the death penalty with the African Charter. Amnesty International hopes that in its opinion, the Court will go further than in the *Ally Rajabu* case to recognize that the death penalty contradicts human rights not only when imposed as a mandatory sentence but in all circumstances.¹²³

¹¹⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified by Mali on 13 January 2005

¹¹⁹ African Charter on the Rights and Welfare of the Child, ratified by Mali on 3 June 1998

¹²⁰ Judgment, *Ally Rajabu and others v. Tanzania*, 28 November 2019, Application 007/2015

¹²¹ Violations of articles 4 (right to life) and 5 (right to dignity and prohibition of torture and other ill-treatment) of the African Charter

¹²² The full list of the 23 cases forbidding mandatory death penalty is as follows: Judgment, *Ally Rajabu and others v. Tanzania*, November 2019, Application 007/2015; Judgment, *Amini Juma v. Tanzania*, September 2021, Application 024/2016; Judgment, *Gozbert Henerico v. Tanzania*, January 2022, Application 056/2016; Judgment, *Ghati Mwita v. Tanzania*, December 2022, Application 012/2019; Judgment, *Marthine Christian Msuguri v. Tanzania*, December 2022, Application 052/2016; Judgment, *Chrizant John v. Tanzania*, November 2023, Application 049/2016; Judgment, *John Lazaro v. Tanzania*, November 2023, Application 003/2016; Judgment, *Makungu Misalaba v. Tanzania*, November 2023, Application 033/2016; Judgment, *Ibrahim Yusuf Calist Bonge and two others v. Tanzania*, December 2023, Application 036/2016; Judgment, *Kachakura Nshekanabo Kakobeka v. Tanzania*, December 2023, Application 029/2016; Judgment, *Deogratius Nicholaus Jeshi v. Tanzania*, February 2024, Application 017/2016; Judgment, *Romward William v. Tanzania*, February 2024, Application 030/2016; Judgment, *Crosperry Gabriel and Ernest Mutakyawa v. Tanzania*, February 2024, Application 050/2016; Judgment, *Nwigiymana Zabron v. Tanzania*, June 2024, Application 051/2016; Judgment, *Dominick Damian v. Tanzania*, June 2024, Application 048/2016; Judgment, *Habyalimana Augustino and Muburu Abdulkarim v. Tanzania*, September 2024, Application 015/2016; Judgment, *Rashidi Romani Nyerere v. Tanzania*, November 2024, Application 023/2018; Judgment, *Gerald Koroso Kalonge v. Tanzania*, November 2024, Application 024/2018; Judgment, *Kija Nestory Jinyamu v. Tanzania*, November 2024, Application 015/2018; Judgment, *Lameck Bazil v. Tanzania*, November 2024, Application 027/2018; Judgment, *Ladislaus Chalula v. Tanzania*, February 2025, Application 003/2018; Judgment, *Tembo Hussein v. Tanzania*, June 2025, Application 001/2018; Judgment, *Emmanuel Yusufu Noriega v. Tanzania*, June 2025, Application 013/2018.

¹²³ In October 2024, the NGO PALU requested an advisory opinion "on the incompatibility of the death penalty with the African Charter on Human and Peoples' Rights", Request 001/2024, <https://www.african->

4.5 DECRIMINALIZING VAGRANCY LAWS: AN ADVISORY OPINION

A majority of countries in Africa¹²⁴ have some type of “vagrancy laws”: laws which consider people that are or are perceived to be poor, homeless or unemployed as criminals. Examples are laws against “vagrants” or “vagabonds” defined as people who do not have a fixed home or livelihood, laws against “suspected person or reputed thief who has no visible means of substance and cannot give a good account of themselves”, or laws forbidding people of “being an idle and disorderly person”.

In 2018, the Pan African Lawyers Union (PALU), a continental bar association registered as an NGO in Tanzania, requested the African Court’s advisory opinion with regards to the compatibility of these laws with African Charter. On 4 December 2020, the African Court issued a comprehensive advisory opinion demonstrating that these laws, by their nature and application, violate many rights of the people punished by them.¹²⁵

The Court found that vagrancy laws criminalize the perceived status of an individual and, because they target “the poor and underprivileged, including but not limited to the homeless, disabled, gender-nonconforming, sex workers, hawkers, street vendors”, further discriminate those who are already vulnerable and marginalized. These laws also label the people they target with derogatory terms which, as the Court said, are “a reflection of an outdated largely colonial perception of individuals without any rights” and dehumanize these individuals. For these reasons, these laws are discriminatory and violate the right to dignity, depriving the targeted individuals of their right to equality before the law.

In addition, the Court found that when enforcing these laws, police officers often arrest the targeted individuals without the need to prove they have done any crime. They can be arbitrarily arrested and detained, or forcibly relocated somewhere else, just for the way they look or based on the location where they are standing. These situations violate the rights to liberty and security, to the freedom of movement, and the presumption of innocence.

The Court also recalled that sometimes these laws result in the arrest children or their forcible relocation from their areas of residence, violating their right to family and freedom from non-discrimination, and resulting in a failure to protect their best interests. In conclusion, the African Court’s advisory opinions reaffirm that all states parties to the African Charter have an obligation to amend or repeal vagrancy laws. This opinion could therefore have great impact on the continent:¹²⁶ if the Court’s recommendations are followed, it could significantly improve the protection of those most vulnerable in the streets.

4.6 PROTECTING THE ENVIRONMENT AND THE RIGHT TO HEALTH IN COTE D’IVOIRE: LIDHO, MIDH AND FIDH CASE

On 19 August 2006, the Probo Koala, a cargo ship chartered by the British oil trading company Trafigura, docked at the port of Abidjan with 528 cubic meters of highly toxic waste, with the authorization of Cote d’Ivoire. The chemical waste was then dumped at several sites of the city and its suburbs.¹²⁷ Air pollution ensued as a vile stench spread across the city. On the same day, thousands of people trooped to health centres complaining of nausea, headaches, vomiting, rashes and nosebleeds. At least 17 people died immediately and over 100,000 experienced health problems in the weeks, months and years which followed. Environmental experts reported severe groundwater contamination. State authorities carried out some

[court.org/cpmt/storage/app/uploads/public/68a/6fa/cf1/68a6facf14d90033503204.pdf](https://www.court.org/cpmt/storage/app/uploads/public/68a/6fa/cf1/68a6facf14d90033503204.pdf). Amnesty International, as well as other NGOs, intervened in this proceeding as amicus curiae.

¹²⁴ In 2020, vagrancy laws were in effect in Algeria, Burundi, Burkina Faso, Cameroon, Chad, Comoros, Republic of Congo, Cote d’Ivoire, Gabon, Guinea, Madagascar, Mauritania, Mali, Morocco, Niger, Sahrawi Arab Democratic Republic, Senegal, Togo, Botswana, Gambia, Malawi, Nigeria, Seychelles, Uganda, Zambia, Mauritius, Namibia, Sierra Leone.

¹²⁵ Violations of articles 2 (prohibition of discrimination), 3 (equality before the law), 5 (right to dignity and freedom from ill-treatment), 6 (right to liberty and security), 7 (right to fair trial), and 12 (right to freedom of movement) of the African Charter

¹²⁶ PALU, “Request for an Advisory Opinion Against Vagrancy Laws and Petty Offences”, 28 September 2022, www.lawyersofafrica.org/request-for-an-advisory-opinion-against-vagrancy-laws-petty-offences/; The EastAfrican, “African Rights court seeks to end ‘vagrancy laws’”, 5 December 2020, www.theeastafrican.co.ke/tea/news/east-africa/african-rights-court-seeks-to-end-vagrancy-laws-3219338; Campaign to decriminalise poverty and status, “Repeal Vagrancy Laws as they are Discriminatory: African Court declares!”, 23 September 2023, pettyoffences.org/repeal-vagrancy-laws-as-they-are-discriminatory-african-court-declares/.

¹²⁷ Amnesty International, “Trafigura, a toxic journey”, 11 April 2016, www.amnesty.org/en/latest/news/2016/04/trafigura-a-toxic-journey/

remediation operations, but not all polluted sites were decontaminated. People living in certain areas continue to experience health problems many years later.

Several cases were brought before the courts in Cote d'Ivoire with regards to this incident. In 2007, Trafigura signed an agreement with the Ivorian government to shield itself from legal action. In the agreement, the government undertook not to initiate or pursue any legal suit against the company or its representatives in exchange for 95 billion CFA. In the end, just a handful of families were compensated. And very few people involved in the incident were prosecuted and no state official was ever held accountable before a criminal court for their complicity or negligence.

In 2016, Ligue ivoirienne des droits de l'Homme (LIDHO), Mouvement ivoirien des droits humains (MIDH), and the International Federation for Human Rights (FIDH), three NGOs acting on behalf of the victims of this environmental catastrophe, brought a complaint to the African Court. They asked the Court to find that the Ivorian government had failed in its obligation to protect human rights in relation to the Probo Koala toxic waste incident.

On 5 September 2023, the Court issued its judgment¹²⁸ and found that Cote d'Ivoire had indeed violated the rights to life, health and to a generally satisfactory environment of all the people affected by the toxic waste dumping. The Court held that the protection of the right to life includes States' duty to prevent and deter risks on the life of people by corporate companies. The Court found that Cote d'Ivoire knew that the cargo aboard the Probo Koala was toxic waste, but it failed to ensure that the waste was treated safely, and that once the dumping had happened, it also failed to take all necessary measures to limit the damage caused to human life and to the environment. In addition, the Court found that the State failed to ensure that persons affected by the disaster had full access to quality health care and that it had not demonstrated that it had effectively and promptly cleaned the polluted sites.

Furthermore, the Court concluded that Cote d'Ivoire had violated the rights to information and to a remedy. It found that while the State did take some measures to inform people about the dangers around the contaminated sites, it never informed the public of the long-term consequences of the toxic waste, the exact composition of the waste, the number of people who had died in the mid and long term, among other aspects. The Court also found that the signing of an agreement between the State and Trafigura created a regime of impunity. The Court emphasized that on a matter of such magnitude, national authorities had the obligation to investigate the matter and to consider the cases of all victims and award them reparations as necessary, regardless of how many victims brought complaints.

The Court ordered Cote d'Ivoire to ensure that victims receive medical and psychological assistance within six months, to conduct a general and updated national census of the victims, and to publish a transparent public report on the use of the funds allocated by Trafigura within six months. The Court also ordered Cote d'Ivoire to initiate a new independent and impartial investigation in order to prosecute the perpetrators of the disaster and to establish a compensation fund for the victims within one year.

In addition, the Court ordered the state to amend its laws within one year to prohibit the import and dumping of hazardous wastes within its territory and to ensure the responsibility of corporate entities in respect of acts relating to the environment and the handling of toxic waste, as well as to organize training programs for relevant public officials and in universities with a view to raise awareness on the protection of human rights and the environment.

This case marked first time that the African Court examined an issue related to the right to a healthy environment. It sets an important precedent¹²⁹ and clarifies that African States will be held accountable for failure to prevent and punish human rights violations committed by corporate companies. States parties to the African Charter must, therefore, prevent and punish violations by non-state actors such as businesses, including when it comes to protecting peoples' lives, health and environment.

¹²⁸ Judgment, *Ligue Ivoirienne des Droits de l'Homme (LIDHO) and others v. Cote d'Ivoire*, 5 September 2023, Application 041/2016. The Court found violations of articles 4 (right to life), 7 (right to remedy), 9 (right to information), 16 (right to health) and 24 (right to satisfactory environment favorable to peoples' development) of the African Charter.

¹²⁹ FIDH, "Ivory Coast: Victory at the African Court for victims of the TRAFIGURA toxic waste dump", 12 October 2023, www.fidh.org/en/issues/business-human-rights-environment/business-and-human-rights/ivory-coast-victory-at-the-african-court-for-victims-of-the-trafigura

4.7 ENDING ATTACKS AGAINST PERSONS WITH ALBINISM IN TANZANIA: CHR, IHRDA AND LHRC CASE

Persons with albinism in Tanzania have historically suffered multifaceted discrimination in various spheres of society. They have often been attacked, killed, hunted for body parts, or mutilated. Children have been specifically abducted or killed for the purposes of sale of their person or their body parts. In 2018, three NGOs, the Centre for Human Rights (CHR), the Institute for Human Rights and Development in Africa (IHRDA) and the Legal and Human Rights Centre (LHRC), brought a complaint regarding this situation.

On 5 February 2025, the African Court issued its judgment.¹³⁰ The Court found that Tanzania had done little to address issues faced by persons with albinism. It should have put effective protective measures in place, punished those responsible for crimes against persons with albinism, and it should have undertaken awareness-raising campaigns to combat the root of the stigma, that is the myths and stereotypes relating to albinism. Furthermore, the Court recognized that persons with albinism have a skin condition which mean that they need sunscreen, wide hats and sunglasses for their survival, and that they suffer psychological harm due to the abuses, seclusion, fear, and the discrimination they live with. In this regard, not only was Tanzania not providing them with basic needs for their physical and mental health, but they also faced discriminatory attitudes which impeded further their access to medical care.

With regards to the situation of children with albinism, Tanzania had established shelters to avert attacks against them. Nevertheless, the Court found that these shelters were not appropriate: the long term separation of parents and the conditions in the shelter were harmful to children. Children also faced difficulties in schools as their basic needs (such as glasses, large print, and extra time) were not accommodated. The Court concluded that Tanzania should have taken more and better measures to protect children with albinism from trafficking and ensure they have access to education.

To remedy this plethora of violations,¹³¹ the Court ordered Tanzania to undertake a comprehensive list of measures to be taken within 2 years, including establishing a compensation fund to identify victims of attacks and compensate them, amending existing laws in order to criminalize violence targeting persons with albinism as being committed under aggravated circumstances, promulgating a national plan raising awareness on the myths regarding albinism, and taking measures to address children's needs in shelters and schools and reuniting families.

This decision is groundbreaking as it marked the first time that the African Court examined the situation of persons with albinism, whose lives are in danger and whose rights are being violated in many places of the continent, beyond Tanzania. The judgment can be a powerful step to improving their situation in Africa, by providing detailed guidelines for all African states on how to protect the rights of persons with albinism in conformity with their obligations under the African Charter.

¹³⁰ Judgment, *Centre for Human Rights and Others v. Tanzania*, 5 February 2025, Application 019/2018

¹³¹ Violations of articles 2 (right not to be discriminated against), 4 (right to life), 5 (right to dignity and freedom from torture), 16 (right to health), and 17 (right to education) of the African Charter and violations of articles 4 and 29 the African Charter of the rights and well being of the Child

5. RECOMMENDATIONS

During its first 20 years, the African Court has had challenges in terms of access, but it has also demonstrated its ability to examine cases brought to it and to develop strong jurisprudence expanding the protection and promotion of human rights on the African continent.

On the occasion of the 20th anniversary of the African Court, and in the hope of many more anniversaries to come, Amnesty International makes the following recommendations:

TO AFRICAN UNION MEMBER STATES

- Ratify the Protocol establishing the African Court on Human and Peoples' Rights without further delay, for all states which have not done so yet;
- Deposit a declaration allowing individuals and NGOs to directly access the African Court without further delay, in accordance with their obligation under Article 34(6) of the African Court Protocol, for all states which have not done so yet or which have withdrawn their declarations;
- For States Parties to the African Court Protocol, implement fully and effectively all judgments and decisions of the African Court issued against them;
- For all State Parties to the African Charter on Human and Peoples' Rights, ensure that their laws and practices are in conformity with the African Court's interpretation of the African Charter on Human and Peoples' Rights.

TO THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

- Continue and strengthen its campaign towards more state ratifications and deposits of Article 34(6) declarations, including through state visits;
- Continue and strengthen its efforts to facilitate the transfer of cases between the African Commission and the African Court;
- Make more conscious efforts to make the Court known on the continent, including by partnering with bar associations, NGOs, and vulnerable categories of populations susceptible to human rights violations;
- Continue to make its jurisprudence available in several languages, including through improving its database to include more search functions and to be more user-friendly for legal research;
- Incorporate a gender-lens and an intersectionality perspective in all relevant cases before it.

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Make use of their right to transfer cases to the African Court, in accordance with the principle of complementarity between the two human rights bodies and the 2025 Guidelines on the Submission and Transfer of Cases;
- Support the African Court in the monitoring of the implementation of the Court's decisions by African Union member states.

TO THE AFRICAN UNION

- Amend Article 5 of the African Court Protocol to specifically include the African Committee of Experts on the Rights and Welfare of the Child on the list of institutions that are entitled to submit cases to the African Court;
- Establish and operationalize the Legal Aid Fund for human rights organs of the African Union without further delay;
- Monitor the implementation of the African Court's judgments and decisions by member states and ensure their full and effective compliance with the judgments and decisions.
- Consider and adopt, without further delay, the Draft Framework for Reporting and Monitoring Execution of Judgments and Other Decisions of the African Court on Human and Peoples' Rights and ensure that it upholds the spirit and letter of Articles 29 and 30 of the African Court Protocol when considering the Framework.

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/AmnestyGlobal



[@Amnesty](https://twitter.com/Amnesty)

20 YEARS OF THE AFRICAN COURT

PROTECT THE COURT, PROTECT THE PEOPLE

The African Court on Human and Peoples' Rights celebrates its 20th anniversary. On 2 July 2006, the first judges were appointed, making the Court a reality.

This report takes stock of the Court's first two decades. Limited access to the Court, especially for individuals and NGOs, remains one of the Court's biggest challenges. Low implementation of the Court's decisions is another one. Nevertheless, the Court has established itself as an important regional court for the protection and promotion of human rights over its 20 years of operations. It has delivered around 150 judgments on merits, including several landmark decisions.

All AU member states that have not yet done so should ratify the African Court Protocol and deposit an Article 34(6) declaration allowing direct access for individuals and NGOs. The African Court and other AU bodies should also facilitate the transfer of cases between the African Commission on Human and Peoples' Rights and the African Court, operationalise the legal aid fund for AU human rights bodies and monitor and ensure states' compliance with the Court's decisions.

Protecting the Court is essential to ensuring it can continue to protect human rights in Africa for decades to come.