

Chapter 10. Advocacy at Regional Human Rights Mechanisms



Regional human rights mechanisms play an important role in monitoring government compliance with human rights obligations. Europe, the Americas, and Africa have their own active regional human rights systems. Each system has many things in common with the United Nations' human rights system, and the regional systems often look to each other and to their UN counterparts for guidance in interpreting human rights language and addressing human rights violations. Nonetheless, each regional system has its own distinct mechanisms and procedures. Individuals and groups concerned about human rights issues in these regions should consider the advantages of engaging with the relevant regional human rights system.

A. The European System

i. The European Court of Human Rights



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

The European Court of Human Rights is an international court set up in 1959 and is located in Strasbourg, France. It is a body of the Council of Europe. Its mandate is to uphold the Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the "European Convention on Human Rights." Forty-seven Council of Europe Member States have ratified the European Convention on

Human Rights and are therefore within the court's jurisdiction.⁷⁶⁰ Cases brought against non-signatories are inadmissible.⁷⁶¹

Much like the individual communications systems of UN treaty bodies, the court hears individual and government applications alleging violations of the rights set out in the European Convention on Human Rights. The court has operated as a full-time court since 1998 and has so far delivered over 10,000 judgments. The court's judgments are binding on the governments concerned and can influence progressive human rights legislation throughout Europe. The court's jurisdiction encompasses 800 million Europeans across the 47 Member States.⁷⁶²

The European Court of Human Rights handles thousands of applications alleging violations of rights under the European Convention in any given year. In 2012, the court received 65,120 new applications, an increase of one percent over 2011.⁷⁶³

Greek Helsinki Monitor Brings Case to European Court of Human Rights

The Greek Helsinki Monitor (GHM), a non-governmental organization, advocated on behalf of 23 Roma schoolchildren against school segregation and the limited access to education for Roma students in Greece. Almost 400 Roma families live in the Greek town of Sofades, and nearly all of them live in Roma housing estates. Many of these estates are close to public schools that non-Roma children attend, but all of the Roma housing estates are in the attendance area for a school that caters almost exclusively to Roma children. GHM appealed to the Ministry of Education, pointing out "a clear ethnic segregation which violates both Greek law and international human rights norms including the European Convention on Human Rights." No action was taken.

GHM then looked to the European Court of Human Rights to end social exclusion faced by the Roma schoolchildren in Sofades. The court ruled in favor of the pupils, stating that "the continuing nature of this situation and the State's refusal to take anti-segregation measures implied discrimination and a breach of the right to education."⁷⁶⁴

The European Court of Human Rights has established specific rules regarding the admissibility of cases:

- Cases may be brought by an individual who has directly suffered from arbitrary detention or another rights violation, or that person's representative.
- At the admissibility stage, an applicant does not need to use a lawyer. But if the case is accepted, the applicant must secure counsel. Some legal aid is available.
- Allegations may accuse only states, not individual persons.
- A person bringing a case before the court must have first exhausted all domestic remedies.
- A person must file an application no later than six months after the final decision in the domestic court or tribunal.
- Applicants must use an official application form.⁷⁶⁵

⁷⁶⁰ European Council of Human Rights, "Court in Brief," accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Court_in_brief_ENG.pdf.

⁷⁶¹ European Council of Human Rights, "The ECHR in 50 Questions," at 3, accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/50Questions_ENG.pdf.

⁷⁶² ECHR, "Court in Brief," *supra* note 760.

⁷⁶³ ECHR, "European Council of Human Rights: Analysis of Statistics," accessed Jan. 8, 2014, 6, http://www.echr.coe.int/Documents/Stats_analysis_2012_ENG.pdf.

⁷⁶⁴ Amnesty International, "European Court again chides Greece over discrimination against Roma schoolchildren," accessed June 24, 2013, <http://www.amnestyusa.org/news/news-item/european-court-again-chides-greece-over-discrimination-against-roma-schoolchildren>.

⁷⁶⁵ ECHR, "Questions and Answers," accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Questions_Answers_ENG.pdf.

Application Materials and Contact Information

The European Court of Human Rights provides an application packet online:

http://www.echr.coe.int/Documents/PO_pack_ENG.pdf

Application forms should be sent to:

The Registrar
European Court of Human Rights
Council of Europe
F-67075 Strasbourg cedex

Filing an application with the European Court of Human Rights

A case must be “admissible” under Article 35 of the European Convention on Human Rights before the court will hear it. The application therefore must demonstrate that the Article 35 criteria are satisfied. At the admissibility stage, the most relevant rules concern:

1. The person who is filing the claim;
2. Exhaustion of domestic remedies;
3. Timely filing;
4. The proper bases for claims;
5. Whether the alleged victim has suffered a significant disadvantage; and
6. The form and substance of the application.

The court rejects an extremely high number of applications for failure to satisfy one of the admissibility criteria, so it is important to pay careful attention to each requirement.⁷⁶⁶

Who Can File a Complaint

An individual or a legal entity—including a corporation, an association, a foundation, a political party, or a human rights organization—may file a complaint. The individual or legal entity must be located within the jurisdiction of a State Party to the Convention or, in the alternative, must fall within the jurisdiction of a State Party to the Convention because of that State Party’s extraterritorial acts.⁷⁶⁷

Exhaustion of Domestic Remedies

The court hears disputes only after a complainant has exhausted all other remedies at the domestic level. Article 35 § 1 recognizes that the “obligation to exhaust domestic remedies forms part of customary international law.”⁷⁶⁸ The exhaustion of domestic remedies requirement has been recognized in the International Court of Justice,⁷⁶⁹ the International Covenant on Civil and Political Rights,⁷⁷⁰ the African Charter on Human and Peoples’ Rights,⁷⁷¹ and other international treaties and judgments. The European Court on Human Rights has recognized that a State may waive the benefit of the rule of exhaustion of domestic remedies.⁷⁷² But as a general matter, the court will scrutinize each application for proof that the applicant has pursued every available appeal or other avenue for

⁷⁶⁶ ECHR, “Practical Guide on Admissibility,” accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Admissibility_guide_ENG.pdf.

⁷⁶⁷ *Ibid.*, 7, 9.

⁷⁶⁸ *Ibid.*, 15(44).

⁷⁶⁹ *Interhandel (Switzerland v. the United States)*, 1959 I.C.J. 6 (Mar. 21).

⁷⁷⁰ UN General Assembly, *International Covenant on Civil and Political Rights*, 1966, Art. 41(1)(c). Also available online at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁷⁷¹ African Commission on Human and Peoples’ Rights (ACHPR), *African (Banjul) Charter on Human and Peoples’ Rights*, 1981, Art. 50, 56(5). Also available online at http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf.

⁷⁷² ECHR, “Practical Guide on Admissibility,” *supra* note 766, at 15(44).

relief at the domestic level. For claims against State Parties that are members of the European Union, an applicant must first exhaust remedies with the European Union courts, including the Court of Justice of the European Union (see text box below).⁷⁷³

Timeliness

Article 35 § 1 requires that an applicant file an application for relief no later than six months after the date on which all domestic remedies were exhausted.⁷⁷⁴ This six-month time period begins upon the date of the final decision made in the domestic remedy process.⁷⁷⁵ The court will examine applications to ensure that an applicant has not tried to circumvent the six-month time limit by “seeking to make inappropriate or misconceived applications to bodies or institutions which have no power or competence to offer effective redress for the complaint in issue under the Convention.”⁷⁷⁶

A Summary Letter Might Extend the Six-Month Deadline

If time is running short, an applicant can consider submitting a brief summary of the application as soon as practicable to preserve the claim. Rule 47(5) of the Rules of the Court states that the “date of introduction of the application for the purposes of Article 35 § 1 of the Convention shall as a general rule be considered to be the date of the first communication from the applicant setting out, even summarily, the subject matter of the application, provided that a duly completed application form has been submitted within the time-limits laid down by the court. The court may for good cause nevertheless decide that a different date shall be considered to be the date of introduction.”⁷⁷⁷ The summary letter to the Registrar of the Court should contain all information regarding the claim that would otherwise be in the application form, as well as all necessary supporting documents. Then, the applicant should submit the completed application form to the Registrar as quickly as possible. There is no guarantee that a summary letter will extend the six-month deadline, but the court’s Institution of Proceedings guide states that a letter can possibly be accepted in lieu of the application form in order to satisfy the six-month filing deadline.⁷⁷⁸

Basis of the Claim

An application must be based on an alleged violation of the European Convention on Human Rights. The Convention sets forth certain prohibitions and obligations of State Parties and recognizes certain human rights. These rights, prohibitions, and obligations are set forth in the Articles of the Convention. An application must expressly allege a violation of one or more articles of the Convention.

Rights Recognized in the European Convention on Human Rights

The European Convention recognizes the following rights, among others:

Obligation to respect human rights	Right to respect for private and family life
Right to life	Freedom of thought, conscience, and religion

⁷⁷³ Joint Communication from Presidents Costa and Skouris, Jan. 24, 2011, 2, accessed Dec. 2, 2013, http://curia.europa.eu/jcms/upload/docs/application/pdf/2011-02/cedh_cjue_english.pdf.

⁷⁷⁴ European Court of Human Rights, European Convention on Human Rights, 1950, Art. 35. Also available online at http://www.echr.coe.int/Documents/Convention_ENG.pdf.

⁷⁷⁵ ECHR, “Practical Guide on Admissibility,” *supra* note 766, at 22(71) (quoting Paul and Audrey Edwards v. the United Kingdom, Reports of Judgments and Decisions 2002-II).

⁷⁷⁶ *Ibid.*, 22(72) (quoting Fernie v. the United Kingdom, The European Court of Human Rights (Fourth Section) (Jan. 5, 2006)).

⁷⁷⁷ ECHR Rules of the Court, 2014, Rule 47(5). Also available online at http://www.echr.coe.int/Documents/Rule_47_ENG.pdf.

⁷⁷⁸ ECHR, “Institution of Proceedings Guide,” accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/PD_institution_proceedings_ENG.pdf.

Rights Recognized in the European Convention on Human Rights	
Prohibition of torture	Freedom of expression
Prohibition of slavery and forced labor	Freedom of assembly and association
Right to liberty and security	Right to marry
Right to a fair trial	Prohibition of discrimination
No punishment without due process of law	

Significant Disadvantage

Under Article 35 § 3 (b), an applicant must show that he or she has suffered a significant disadvantage.⁷⁷⁹ This new admissibility requirement entered into force in 2010 in an effort to curb the court's increasing caseload.⁷⁸⁰ According to the court, a significant disadvantage may involve pecuniary interests,⁷⁸¹ important questions of principle,⁷⁸² and delays of government actions.⁷⁸³ The court has rejected claims that totaled well under 50 Euros or involved very short delays in government action that did not result in any injury to the applicant.

Form and Substance of the Application

A standardized application packet is available at the court's website (<http://www.echr.coe.int>) under the "Applicants" section. At present, applications must be printed out and mailed to the Registrar of the ECHR.⁷⁸⁴ On-line applications (currently available only for applicants using the Swedish and Dutch languages) can be found under the "Applicants" section of the website. Applicants may also file an application by fax, but must forward the signed original application form by post within eight weeks of the initial contact with the court.⁷⁸⁵

Rule 47 of the Rules of the Court defines the information that is required to be in an application. An Application "shall set out:

- (a) The name, date of birth, nationality, sex, occupation and address of the applicant;
- (b) The name, occupation and address of the representative, if any;
- (c) The name of the Contracting Party or Parties against which the application is made;
- (d) A succinct statement of the facts;
- (e) A succinct statement of the alleged violation(s) of the Convention and the relevant arguments;
- (f) A succinct statement on the applicant's compliance with the admissibility criteria (exhaustion of domestic remedies and the six-month rule) laid down in Article 35 § 1 of the Convention; and
- (g) The object of the application;
- (h) And be accompanied by copies of any relevant documents and in particular the decisions, whether or judicial or not, relating to the object of the application."⁷⁸⁶

In addition, applicants must:

⁷⁷⁹ ECHR, European Convention on Human Rights, *supra* note 774, Art. 35 § 3(b).

⁷⁸⁰ ECHR, "Practical Guide on Admissibility," *supra* note 766, at 75.

⁷⁸¹ ECHR, "Practical Guide on Admissibility," *supra* note 766, at 75–76 (cases involving sums of money less than 90 euros, 12 euros, and 25 euros were considered to not be a significant disadvantage); *Ionescu v. Romania*, The European Court of Human Rights (Third Section) (June 1, 2010); *Korolev v. Russia*, Reports of Judgments and Decisions 2010; *Vasilchenko v. Russia*, The European Court of Human Rights (First Section) (Sept. 23, 2010); *Rinck v. France*, The European Court of Human Rights (Fifth Section) (Oct. 19, 2010); *Gaftoniuc v. Romania*, The European Court of Human Rights (Third Section) (Feb. 22, 2011).

⁷⁸² ECHR, "Practical Guide on Admissibility," *supra* note 766, at 76; *Korolev v. Russia*, Reports of Judgments and Decisions 2010.

⁷⁸³ ECHR, "Practical Guide on Admissibility," *supra* note 766, at 76; *Korolev v. Russia*, Reports of Judgments and Decisions 2010; *Gaglione and Others v. Italy*, The European Court of Human Rights (Dec. 21, 2010).

⁷⁸⁴ The Registrar, European Court of Human Rights, Council of Europe, F-67075 Strasbourg cedex.

⁷⁸⁵ Fax no. +33 (0)3 88 41 27 30.

⁷⁸⁶ ECHR Rules of the Court, 2014, *supra* note 777, Rule 47.

- (a) Provide information, notably the documents and decisions referred to in paragraph 1(h) of the this Rule, enabling it to be shown that the admissibility criteria (exhaustion of domestic remedies and the six-month rule laid down in Article 35 § 1 of the Convention) have been satisfied; and
- (b) Indicate whether they have submitted their complaints to any other procedure of international investigation or settlement.⁷⁸⁷

An application must disclose the alleged victim's name, but an application may request anonymity. "Applicants who do not wish their identity to be disclosed to the public shall so indicate and shall submit a statement of the reasons justifying such a departure from the normal rule of public access to information in proceedings before the Court. The President of the Chamber may authorize anonymity or grant it of his or her own motion."⁷⁸⁸

Process After the Application is Filed

Once the application has passed through the administrative screening and satisfied the admissibility criteria, the application goes through several additional stages. If initial analysis determined that the application is inadmissible, the case may be concluded at that point, depending on the reasons for the inadmissibility decision. If the application is admissible, the court conducts an examination of the merits of the case. This examination will result in a judgment finding a violation or no violation. If the court determines that there has been a violation, it may order a variety of remedies: compensation for the victim; individual measures to assist the victim, such as restitution or reopening of domestic proceedings; and general measures, such as amendments to the laws of the State Party.

Regardless of whether there is a judgment in favor of the applicant or a judgment determining that the applicant's claims are unfounded, the unsuccessful party may request a re-examination of the case. If the request is denied, the case is concluded. If the request is accepted, the case is referred to the Grand Chamber for a final judgment.

The court provides a helpful flowchart outlining all of the steps in the application process:

⁷⁸⁷ Ibid. Rule 47.

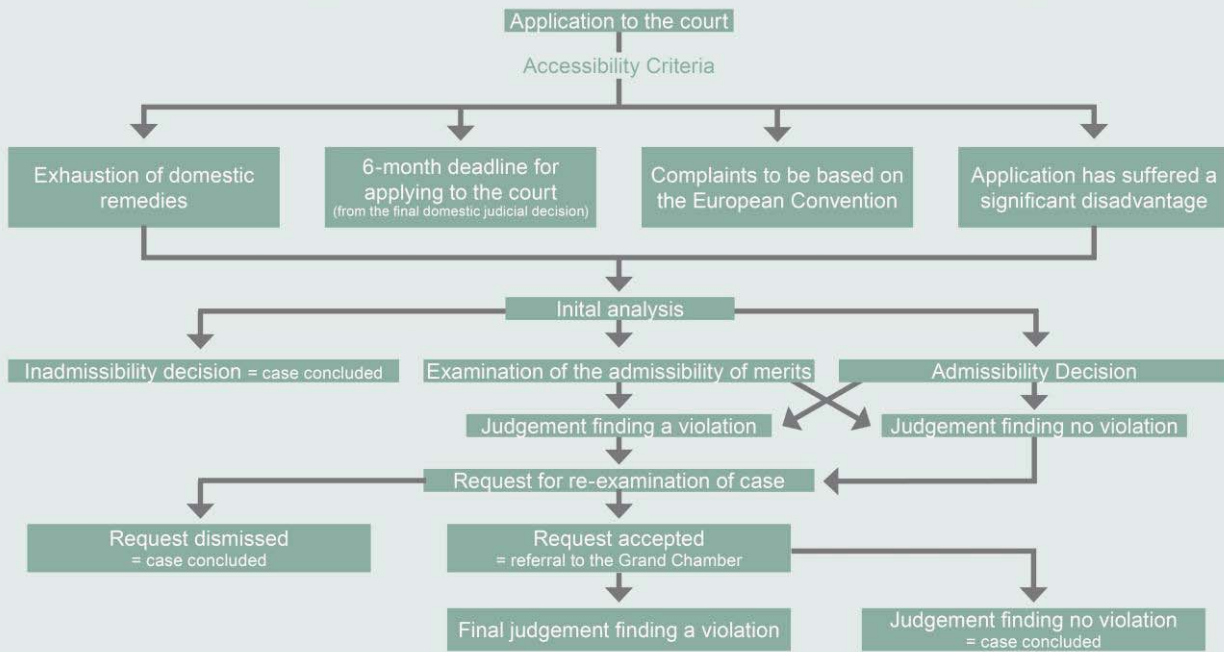
⁷⁸⁸ Ibid. Rule 47(3).

THE LIFE OF AN APPLICATION IN THE EUROPEAN COURT

Proceedings at national level



Proceedings before the European Court of Human Rights



Execution of Judgement



Monitoring Proceedings at the European Court of Human Rights

Monitoring the proceedings at the European Court of Human Rights is relatively straightforward. The court publishes case decisions, case law, annual reports, statistics, press releases, hearing information, and official texts. This information is accessible through the court's website at no cost. Advocates should examine the court's website (<http://www.echr.coe.int>), in particular the "Library," "Official Texts," and "Publications" sections.

Webcasts of Hearings

The court broadcasts hearings from its website in several languages. Under the "Hearings" section of the Court's website, visitors may watch hearings; read transcripts, decisions and judgments; and listen to the hearings in the original language the hearings were held (sometimes translated into other languages). Webcasts of morning hearings are available by 2:30 p.m. local time the same day.

Decisions, Case Law, and Official Texts

The court has an official case law database called HUDOC. It contains nearly all decisions and judgments of the court.⁷⁸⁹ The court's website includes a user's manual that explains how to conduct searches of the database. The court's publications about its own case law can also be extremely valuable. These useful guides include the *Case-Law Information Note*, the *Handbooks on European Law*, the *Guides on Case-Law*, the *Case-Law Research Reports*, and an *Admissibility Guide*.

Case-Law Information Note

The Case-Law Information Note is a monthly publication that includes "summaries of cases (judgments, admissibility decisions, communicated cases and cases pending before the Grand Chamber) considered to be of particular interest. Each summary has a headnote and is classified by the Convention Article(s) to which the case relates and by keywords."⁷⁹⁰

Handbooks on European Law

The court also publishes several handbook guides related to areas of interest in European law. The handbooks are joint publications by the court and the European Union Agency for Fundamental Rights. So far they have published the Handbook on European Non-Discrimination Law and the Handbook on European Law Relating to Asylum, Borders, and Immigration.

Guides on Case-Law

The Guides on Case-Law are "prepared by the Registry (Research Division) on its own authority" and are not binding on the court itself.⁷⁹¹ These guides can be extremely useful to advocates and provide a solid overview of the areas covered. Three guides have been published so far and are available on the court's website. The Guide on Article 4: Prohibition of Slavery and Forced Labour is available in English, French, and Chinese. The Guide on Article 5: Right to Liberty and Security is available in English, French, Russian, Turkish, and Ukrainian. The Guide on Article 6: Right to a Fair Trial is available in English and French.⁷⁹²

⁷⁸⁹ ECHR, "HUDOC database," accessed Jan. 8, 2014, <http://hudoc.echr.coe.int>.

⁷⁹⁰ ECHR, "Case-Law Information Note," accessed Jan. 8, 2014, http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n134528850996_Pointer.

⁷⁹¹ Meyer & Nouzha Advocates, "ECHR Key Case-Law Issues," accessed Jan 8, 2014, <http://www.meyer-nouzha-advocates.com/english/european-court-of-human-rights-key-case-law-issues/>.

⁷⁹² ECHR, "Case-law Guides," accessed Jan. 8, 2014, http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n13693846752619364551309_pointer.

Case-Law Research Reports

The Case-Law Research Reports focus on individual topics of importance to the court. The court has published eleven reports covering a variety of subjects, such as bioethics and the case law of the court, new admissibility criteria, cultural rights, and positive obligations under Article 10.⁷⁹³

Admissibility Guide

The court's Admissibility Guide is an important resource for people considering whether to file an application. It provides guidance on the admissibility criteria and gives providing case law examples of how the court has interpreted the admissibility criteria.

Observers may follow the European Court of Human Rights using several social media tools. The European Court of Human Rights distributes press releases on Twitter (@ECHR_Press), and the court has a Facebook page and a YouTube channel (www.youtube.com/user/EuropeanCourt).

ii. The European Court of Justice

The Court of Justice of the European Union, also called the European Court of Justice, rules on European Union (EU) law, which covers the 28 EU Member States, while the European Court of Human Rights rules on the European Convention on Human Rights, which covers the 47 Member States of the Council of Europe. The European Court of Justice is located in Luxembourg, while the European Court of Human Rights is located in Strasbourg, France.

The authority of the European Court of Justice rests in the treaties of the EU, including the Charter of Fundamental Rights of the European Union, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which the EU has acceded. The task of the European Court of Justice is to "ensure that in the interpretation and application of European Union Law the law is observed."⁷⁹⁴ The European Court of Justice's work includes, but is not limited to, human rights issues.

The European Court of Justice typically hears five types of cases:

- (a) **requests for a preliminary ruling**—when national courts ask the Court of Justice to interpret a point of EU law;
- (b) **actions for failure to fulfill an obligation**—against EU governments for not applying EU law;
- (c) **actions for annulment**—against EU laws thought to violate EU treaties or fundamental rights;
- (d) **actions for failure to act**—against EU institutions for failing to make decisions required under EU law; and
- (e) **direct actions**—brought by individuals or legal entities against EU decisions or actions.⁷⁹⁵

For purposes of exhaustion of remedies, the European Court of Justice may be considered a "national" or "domestic" court in some circumstances. If, for example, a person has a human rights claim against an EU body or regulation, the person must exhaust remedies with the European Court of Justice before turning to the European Court of Human Rights. A person who has a human rights claim against an EU Member State usually must bring a case in that country's national courts, but may ask those courts to "refer for a preliminary ruling" a human rights issue to the European Court of Justice.⁷⁹⁶

⁷⁹³ ECHR, "Research Report: Positive Obligations on Member States Under Article 10 to Protect Journalists and Prevent Impunity," accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Research_report_article_10_ENG.pdf.

⁷⁹⁴ Court of Justice of the European Union (CJEU), "Your Questions About...", June, 2010, http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cjuecoursinternationales_en.pdf.

⁷⁹⁵ European Union, "Court of Justice of the European Union," accessed Jan. 8, 2014, <http://europa.eu/about-eu/institutions-bodies/court-justice/>.

⁷⁹⁶ Joint Communication from Presidents Costa and Skouris, *supra* note 773, at 2.

As of January 2014, the European Union consists of ⁷⁹⁷ :		The Council of Europe includes all of the 28 EU Member States, plus ⁷⁹⁸ :	
Austria	Italy	Albania	Monaco
Belgium	Latvia	Andorra	Montenegro
Bulgaria	Lithuania	Armenia	Norway
Croatia	Luxembourg	Azerbaijan	Russia
Cyprus	Malta	Bosnia and Herzegovina	San Marino
Czech Republic	Netherlands	Georgia	Serbia
Denmark	Poland	Iceland	Switzerland
Estonia	Portugal	Liechtenstein	Turkey
Finland	Romania	The Former Yugoslav Republic of Macedonia	Ukraine
France	Slovakia	Moldova	
Germany	Slovenia		
Greece	Spain		
Hungary	Sweden		
Ireland	United Kingdom		

Any EU citizen may bring an action before the General Court of the European Court of Justice against an act of any EU institution that is of individual concern to the individual or against an EU regulatory act that directly affects the individual.⁷⁹⁹ Citizens of the EU may also submit their observations to the European Court of Justice when it hears cases referred for a preliminary hearing.

European Court of Justice Rules that Sexual Orientation can be a Basis for Asylum under EU Law

In 2011, three African men from Senegal, Sierra Leone, and Uganda, applied for asylum in the Netherlands on the grounds that they faced persecution for being homosexual. Immigration authorities denied their applications, noting that the men could have behaved in a restrained manner to hide their identities. The men appealed to the Dutch court system, where the judge referred the question to the European Court of Justice, asking for a ruling clarifying standards for applying European Union law on asylum. In 2013, the court found that homosexuality warranted asylum if a person's home country imposed sentences of imprisonment for sexual identity. Further, "a person's sexual orientation is a characteristic so fundamental to his identity that he should not be forced to renounce it,' [and it is] not reasonable to expect gay people to conceal their sexual identity."⁸⁰⁰ The case now goes back to the domestic court to apply the ECJ's ruling.



⁷⁹⁷ European Union, *Member States of the EU*, accessed Dec. 2, 2013, <http://europa.eu/about-eu/countries/>.

⁷⁹⁸ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms*, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=&DF=&CL=ENG>.

⁷⁹⁹ CJEU, "Your Questions About..." *supra* note 794.

⁸⁰⁰ Al Jazeera America, "EU Court Says Anti-Gay Laws can be Grounds for Asylum," accessed Jan. 8, 2014, <http://america.aljazeera.com/articles/2013/11/7/eu-court-rules-antigaylawscanbegroundsforasylum.html>. The judgment is *X and Others v. Minster voor Immigratie en Asiel (C-199/12)*, Court of Justice of the European Union (Fourth Chamber) (Nov. 7, 2013). Available online at <http://curia.europa.eu/juris/liste.jsf?num=C-199/12&language=en>.

iii. Other European Human Rights Mechanisms

The European Committee for the Prevention of Torture

The Council of Europe set up the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 1989.⁸⁰¹ The CPT is a non-judicial preventive mechanism to protect persons deprived of their liberty against torture and other forms of ill-treatment, complementing some of the work of the European Court of Human Rights. The CPT organizes visits to places of detention in Council of Europe countries, including prisons, juvenile detention centers, police stations, and psychiatric hospitals. After the CPT notifies a country about a potential review, a CPT delegation may go to any place in that country where persons are deprived of their liberty at any time without notice. After visits, the CPT sends a detailed report of its findings to the country under review. The report includes findings, recommendations, and requests for further information to improve affected persons' liberties.

The European Instrument for Democracy and Human Rights

As an institution of the European Union, the European Commission launched the European Instrument for Democracy and Human Rights (EIDHR) in 2006 to provide support for the promotion of democracy and human rights in **non-EU countries**. The EIDHR uses political dialogue, diplomatic initiatives, and various instruments for financial and technical cooperation to implement EU policies protecting human rights.⁸⁰² The EIDHR works with, for, and through civil society organizations and can grant aid where no established development cooperation exists. The EIDHR can intervene without the agreement of the governments of third countries. The EIDHR helps support civil society organizations and individuals who defend democracy, as well as intergovernmental organizations that implement international mechanisms for the protection of human rights.

Agency for Fundamental Rights

The European Union's Agency for Fundamental Rights (FRA) provides European Union institutions and EU countries with independent, evidence-based advice on fundamental rights.⁸⁰³ The FRA collects and analyzes data, provides assistance, and raises fundamental rights awareness to coordinate and ensure necessary information reaches the right people, whether information is directed toward the general public or different levels of government and EU institutions. The FRA has a five-year framework for implementing specific projects and activities within thematic areas. FRA's areas of focus include: access to justice; crime victims (including compensation for victims); information society (respect for private life and protection of personal data, in particular); Roma integration; judicial cooperation (excluding criminal matters); the rights of the child; discrimination; immigration and integration of migrants; and racism, xenophobia, and related intolerance.

EuropeAid

EuropeAid enables the European Commission to address development and cooperation issues in a unified way with a view to reducing poverty in the world, ensuring sustainable development, and promoting democracy, peace, and security. EuropeAid partners with NGO networks to consult, create dialogue, and further understand what needs to be done to promote human rights. One NGO network, called CONCORD (Confederation for Cooperation of Relief and Development NGOs), is a group of 27 national associations, 18 international networks, and 2 associate members, together representing over 1,800 NGOs across Europe. CONCORD's affiliates work to improve the policies affecting development cooperation and humanitarian aid.⁸⁰⁴ EuropeAid also works with: the

⁸⁰¹ European Committee for the Prevention of Torture (CPT), "CPT in Brief," accessed Jan. 8, 2014, <http://www.cpt.coe.int/en/about.htm>.

⁸⁰² European Commission, "European Instrument for Democracy & Human Rights (EIDHC)," accessed Jan. 8, 2014, http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm.

⁸⁰³ European Union Agency for Fundamental Rights (FRA), "What We Do," accessed Jan. 8, 2014, <http://fra.europa.eu/en/about-fra/what-we-do>.

⁸⁰⁴ Concord, "About Us," accessed Jan. 8, 2014, <http://www.concordeurope.org/about-us>.

European Network of Political Foundations (ENOP),⁸⁰⁵ the European Peace-Building Liaison Office (EPLO),⁸⁰⁶ the International Trade Union Confederation (ITUC),⁸⁰⁷ and the Human Rights and Democracy Network (HRDN).⁸⁰⁸

B. The Inter-American System

The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are autonomous bodies of the Organization of American States. Together, the Inter-American Commission and the Inter-American Court interpret and enforce the Charter of the Organization of American States, the American Declaration on the Rights and Duties of Man, the American Convention on Human Rights, and as well as several subsidiary human rights treaties adopted by the General Assembly of the OAS.⁸⁰⁹ The Inter-American Commission is based in Washington, D.C., and the Inter-American Court is based in San Jose, Costa Rica.

The Organization of American States' Instruments for the Protection and Promotion of Human Rights ⁸¹⁰
The American Declaration of the Rights and Duties of Man (adopted 1948)
The American Convention on Human Rights ("Pact of San José, Costa Rica") (adopted 1969, entered into force 1978)
The Inter-American Convention to Prevent and Punish Torture (adopted 1985, entered into force 1987)
The Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights ("Protocol of San Salvador") (adopted 1988, entered into force 1999)
The Protocol to the American Convention on Human Rights to Abolish the Death Penalty (adopted 1990, entered into force 1991)
The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará") (adopted 1994, entered into force 1995)
The Inter-American Convention on Forced Disappearance of Persons (adopted 1994, entered into force 1996)
The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (adopted 1999, entered into force 2001)
The Inter-American Democratic Charter (adopted 2001)
The Declaration of Principles on Freedom of Expression (adopted 2000)
Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (adopted 2008)
<i>Note: The Inter-American Commission on Human Rights maintains extensive information about the interpretation of these treaty provisions, including decisions on past petitions, on its website: www.cidh.org/casos.eng.htm.⁸¹¹</i>

⁸⁰⁵ European Network of Political Foundations, "Homepage," accessed Jan. 8, 2014, <http://www.european-network-of-political-foundations.eu/cms/>.

⁸⁰⁶ European Peacebuilding Liaison Office, "EPLO," accessed Jan. 8m 2014, <http://www.eplo.org/>.

⁸⁰⁷ International Trading Union Confederation (ITUC), "International Trading Union Confederation," accessed Jan. 8, 2014, <http://www.ituc-csi.org/?lang=en>.

⁸⁰⁸ Human Rights and Democracy Network (HRDN), "Human Rights and Democracy Network," accessed Jan. 8, 2014, <http://www.hrdn.eu/>.

⁸⁰⁹ Organization of American States, Inter-American Commission on Human Rights, "IACHR, Introduction," accessed Dec. 2, 2013, <http://www.oas.org/en/iachr/mandate/Basics/intro.asp>.

⁸¹⁰ Ibid.

The Center for Justice and International Law maintains a Law and Jurisprudence database, a tool for lawyers, victims, and human rights defenders with legal judgments and other authoritative resources from the Inter-American Commission and the Inter-American Court: <http://cejil.org/en/derecho-y-jurisprudencia/casos>.

i. The Inter-American Commission on Human Rights



The Inter-American Commission on Human Rights (IACHR), based in Washington, D.C., investigates individual complaints, conducts independent monitoring, and refers cases to the Inter-American Court. “All 35 independent states of the Americas have ratified the OAS Charter and are members of the Organization.”⁸¹² Twenty-three of those States have also ratified the American Convention on Human Rights.⁸¹³

a. Individual Petitions and Cases

The IACHR has the authority to receive, analyze, and investigate “individual petitions that allege violations of human rights, with respect to both the Member States of the OAS that have ratified the American Convention, and those Member States that have not ratified it.”⁸¹⁴ Different rules and procedures apply, depending on whether the petition alleges violations against an OAS Member State that has ratified the American Convention.⁸¹⁵ In general, the petition must contain facts setting forth a violation of human rights recognized in the American Declaration of the Rights and Duties of Man (for allegations against non-Convention States) or the American Convention or another Inter-American human rights treaty (for allegations against State Parties to the American Convention). In most circumstances, the petition must show that the petitioner has exhausted domestic remedies.⁸¹⁶

After the IACHR receives a petition, it sends the government the pertinent parts of the petition and requests relevant information. The petitioner may comment on the government’s response. If the commission determines that the petition is admissible, the IACHR will review it on the merits, potentially conducting an on-site investigation of the allegations.⁸¹⁷ The IACHR may request further information from the parties and usually holds a hearing for the presentation of factual and legal arguments. In most cases, the IACHR will try to reach a friendly settlement between the petitioner and the government.

⁸¹¹ The Center for Justice and International Law (CEJIL) has extensive experience with litigation of cases before the IACHR and also is a good resource for advocates considering filing a petition at the IACHR. It maintains a database of jurisprudence from the Inter-American system, as well as a directory of *pro bono* attorneys, NGOs, and law clinics willing to consult on cases in the Inter-American system.

⁸¹² Organization of American States, “Member States,” accessed Dec. 2, 2013, http://www.oas.org/en/member_states/default.asp?.

⁸¹³ Organization of American States, “Multilateral treaties,” accessed Dec. 2, 2013, http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm. (Two additional countries—Venezuela and Trinidad & Tobago—ratified but subsequently denounced the American Convention.)

⁸¹⁴ Organization of American States, “IACHR, Introduction,” *supra* note 809.

⁸¹⁵ *Ibid.*, n. 11.

⁸¹⁶ Inter-American Commission on Human Rights (IACHR), American Convention on Human Rights, 1969, Art. 20(c). Available online at <http://cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

⁸¹⁷ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, 2009, Art. 39. Also available online at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

The Inter-American Commission on Human Rights Provides a Checklist of Things to Include in a Petition or Complaint

Every petition should include:

- ✓ The personal information of the alleged victim(s) and that of his/her next of kin;
- ✓ The personal information on the petitioner(s), such as complete name, phone number, mailing address, and email;
- ✓ A complete, clear, and detailed description of the facts alleged that includes how, when, and where they occurred, as well as the State considered responsible;
- ✓ An indication of the State authorities considered responsible;
- ✓ The rights considered violated, if possible;
- ✓ The judicial bodies or authorities in the State to which one has turned to remedy the alleged violations;
- ✓ The response of the State authorities, especially of the courts of justice;
- ✓ If possible, uncertified and legible copies of the principal complaints and motions filed in pursuit of a remedy, and of the domestic judicial decisions and other annexes considered relevant, such as witness statements; and
- ✓ An indication as to whether the petition has been submitted to any other international organization competent to resolve cases.

The Center for Justice and International Law publishes a Pro Bono Guide, which is a directory of all persons and organizations offering free counseling services and legal assistance before the Inter-American Commission and Inter-American Court of Human Rights: <http://cejil.org/en/pro-bono-guide>.

The IACHR's contact information for submitting petitions is:

Inter-American Commission on Human Rights
Organization of American States
1889 F Street, N.W.
Washington D.C., 20006
United States of America
Fax: (202) 458 3992
E-Mail: cidhoea@oas.org
Web Site: www.cidh.org

The commission also provides a secure, on-line complaint form, along with instructions for submitting a petition: https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E.

Victims' Legal Assistance Fund

If the IACHR decides that a petition is admissible, the petitioner or a victim in the case may apply to the Inter-American Commission's Victim's Legal Assistance Fund. The fund may cover expenses for: (1) gathering and sending documentary evidence; (2) appearance of the alleged victim, witnesses, and experts at commission hearings; and (3) other expenses that the IACHR considers pertinent for processing the case.⁸¹⁸ Requests must be in writing. For more information, visit: <http://www.oas.org/en/iachr/mandate/Basics/fund.asp>.

⁸¹⁸ Inter-American Commission on Human Rights, "Legal Assistance Fund," accessed Jan. 8, 2014, <http://www.oas.org/en/iachr/mandate/Basics/fund.asp>.

If the IACHR determines that there has been a violation, the IACHR will issue the government a preliminary, unpublished report with proposed recommendations. The government also receives a deadline for reporting back to the IACHR on the measures it has taken to comply with the proposed recommendations.⁸¹⁹ If the matter has not been resolved within three months, the IACHR may issue a final report containing the commission's opinion and final conclusions and recommendations. This final report typically gives the parties a deadline to follow up with the IACHR about compliance with the commission's final recommendations.⁸²⁰ The commission later evaluates compliance and decides whether to publish the report.⁸²¹ If the commission publishes the report, it may also adopt follow-up measures and report on progress as appropriate.⁸²²

Petitions to the IACHR can be used strategically to: (1) allow for new arguments to be considered that may be barred from consideration in a domestic court for procedural reasons; (2) allow more time to negotiate domestic remedies pending IACHR review; and (3) generate important publicity on the international stage relative to the issues in the case. Bringing a petition before the IACHR can also help provide a survivor of human rights abuses an opportunity to be heard.

Inter-American Commission on Human Rights: Comparison of the Rules and Procedures for Individual Petitions		
	State has not ratified the American Convention	State has ratified the American Convention
Basis for human rights	American Declaration of Rights and Duties of Man, especially Articles I-IV, XVIII, XXV-XXVI	American Convention on Human Rights, other Inter-American human rights treaties that the State has ratified
Relevant language in the Commission Statute	Article 20	Article 19
Relevant Rules of Procedure for the Inter-American Commission	Articles 38-44, 47-49, 51-52	Articles 26-49
Who may lodge a petition?	No specific rule	A person, group of people, or non-governmental organization legally recognized in an OAS State American Convention Art. 44.
May a petitioner request to be anonymous?	No specific rule	Petitioners may request that their identity be withheld from the State, but the petition must provide reasons. Rules of Procedure Art. 28.

⁸¹⁹ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, *supra* note 817, at Art. 44.

⁸²⁰ *Ibid.* Art. 47.

⁸²¹ *Ibid.* Art. 47(3).

⁸²² *Ibid.* Art. 48.

Inter-American Commission on Human Rights: Comparison of the Rules and Procedures for Individual Petitions		
	State has not ratified the American Convention	State has ratified the American Convention
Is it necessary to exhaust domestic remedies?	Yes. The commission must verify whether domestic legal procedures and remedies have been duly applied and exhausted. Commission Statute Art. 20(c).	Not always. The exhaustion requirement does not apply if domestic law does not provide due process for the protection of the human rights at issue, or if the petitioner has been denied access to remedies or has been prevented from exhausting remedies, or if there has been unwarranted delay in rendering final judgment under available domestic remedies. Rules of Procedure Art. 31(2).
When must the petition be filed?	No specific rule	No later than 6 months after the petitioner receives notice of the final judgment relevant to exhaustion of domestic remedies. If one of the exhaustion exceptions applies, then the petition must be filed within a reasonable time, considering the circumstances of the case. Rules of Procedure Art. 32; American Convention Art. 46.
Can the commission refer the case to the Inter-American Court of Human Rights?	No specific rule	Yes. If the commission determines that there has been a violation, the petitioner may request that the commission refer the case to the Inter-American Court. If the commission determines that the State has not complied with the commission's recommendations, it may refer the case to the Inter-American Court. Rules of Procedure Art. 44(3), Art. 45.

Jessica Lenahan and the ACLU: Using the Inter-American Human Rights System to Hold Officials Accountable⁸²³

Jessica Lenahan's three daughters were abducted by their father in 1999, in violation of a court restraining order that should have protected them. In spite of multiple calls to police in Castle Rock, Colorado, Lenahan was told that there was nothing the police could do. Later that night, Simon Gonzales drove to the Castle Rock police station and opened fire. After he was killed in a shoot-out with police, the officers found the dead bodies of the three girls in his truck.

Lenahan filed a lawsuit against the Castle Rock Police Department, asserting that the police had breached their duty to protect her and her daughters by failing to enforce an order of protection against her abusive husband. In 2005, after conflicting decisions in lower federal courts, the U.S. Supreme Court held that Lenahan had no individual right to enforcement of her order for protection and therefore could not sue.

Lenahan and her lawyers at the American Civil Liberties Union (ACLU) decided to file a petition with the Inter-American Commission of Human Rights. This was the first time that an individual complaint by a victim of domestic violence had been brought against the United States for international human rights violations.

The IACHR found Lenahan's petition admissible and held a hearing in October 2008. Lenahan was able to testify about her experiences with domestic violence and the police department's refusal to enforce the order for protection—something she was never able to do in the U.S. legal system. Taking her case to an international human rights mechanism has had a beneficial impact on Lenahan. "This was the first time I had ever been heard in a court . . . it lifted a burden of having to carry the facts and the details of what I knew to be true. To have an audience with the State Department was probably the best part of it. Not just being able to say it and recount it, but that they had to listen."

In 2011, the IACHR published its final report in the case, concluding that the U.S. Government "failed to act with due diligence to protect" Lenahan and her daughters "from domestic violence, which violated the State's obligation not to discriminate and to provide for equal protection before the law under Article II of the American Declaration." The IACHR further found that the U.S. Government had "failed to undertake reasonable measures to protect the life of [the girls,] in violation of their right to life under Article I of the American Declaration, in conjunction with their right to special protection as girl-children under Article VII of the American Declaration."



Jessica Lenahan

⁸²³ Jessica Gonzalez v. U.S.A., American Civil Liberties Union. <http://www.aclu.org/human-rights-womens-rights/jessica-gonzales-v-usa>; Perfecting Our Union: Human Rights Success Stories from Across the United States, The U.S. Human Rights Fund, March 2010.

Finally, the IACHR found that the U.S. Government had violated Lenahan's "right to judicial protection . . . under Article XVIII of the American Declaration."⁸²⁴

In its final report, the IACHR recommended that the United States:

- Investigate the systemic failures related to the enforcement of Lenahan's protection order in order to guarantee that those failures would not recur;
- Offer full reparations to Lenahan;
- Adopt multifaceted legislation at the federal and state levels to make enforcement of protection orders and other precautionary measures mandatory, and to create effective implementation mechanisms and training programs;
- Adopt multifaceted legislation at the federal and state levels to protect children in the context of domestic violence;
- Continue adopting policies and programs aimed at restructuring the stereotypes of domestic violence victims and to promote eradication of discriminatory socio-cultural patterns impeding full protection from domestic violence; and
- Design protocols specifying the proper components of a law enforcement investigation of a report of missing children in the context of a report of a violation of a restraining order.⁸²⁵

Since the decision, both the national and local governments have undertaken positive measures toward implementation. On a national level, the U.S. Department of Justice investigated both the New Orleans and the Puerto Rico police departments and found a police failure to adequately respond to cases of violence against women, namely domestic violence and sexual assault.⁸²⁶ Following these findings, the U.S. Department of Justice entered into consent decrees with both police departments, requiring them to reform their protocols and practices so as to end discrimination based on ethnicity, race, sex, and sexual orientation.⁸²⁷ The U.S. Department of Justice is responsible for monitoring compliance with these consent decrees.⁸²⁸ Second, seven jurisdictions have adopted resolutions recognizing domestic violence is a human rights violation.⁸²⁹ Some of these resolutions focus on state and local governments and affirm their obligation to protect people within their jurisdictions against domestic abuse.⁸³⁰ A resolution from the Seattle Human Rights Commission, on the other hand, focuses on the federal government's responsibility to protect and promote human rights, and it calls upon the "U.S. House of Representatives to pass the Senate version of VAWA."⁸³¹ Jessica Lenahan's attorneys are still engaged in discussions with the U.S. government on further implementation of the decision.

b. Rapporteurships

The seven commissioners who serve on the IACHR also hold various thematic rapporteurships. The IACHR creates these rapporteurships "to strengthen, promote, and systematize the Inter-American Commission's own

⁸²⁴ IACHR, Report Number 80/11, *Jessica Lenahan (Gonzales) et al. v. United States*, July 21, 2011, ¶ 201. Also available online <https://www.aclu.org/womens-rights/jessica-gonzales-v-usa-iachr-final-report>.

⁸²⁵ *Ibid.*

⁸²⁶ The Advocates for Human Rights, University of Miami School of Law Human Rights Clinic, Legal Momentum, and Women Enabled, *Written Statement on Domestic Violence, Gun Violence, and "Stand Your Ground" Laws* (2013), ¶¶ 9, 72–74.

⁸²⁷ *Ibid.*

⁸²⁸ *Ibid.* ¶ 74.

⁸²⁹ These jurisdictions include Albany, Baltimore, Cincinnati, Miami Dade County, the City of Miami Springs, Florida Montgomery County Alabama City and County, and the Seattle Human Rights Commission. *Ibid.* ¶ 75.

⁸³⁰ *Ibid.* ¶ 76.

⁸³¹ *Ibid.* ¶ 77.

work on the issue.”⁸³² Civil society organizations can engage with these rapporteurships by responding to questionnaires on particular topics, participating in country visits and hearings, and submitting written information after hearings. Groups can also encourage rapporteurships to speak out about particular human rights violations or to examine particular topics in hearings, questionnaires, and country visits.

Inter-American Commission Thematic Rapporteurships and Units (from oldest to newest)
Rapporteurship on the Rights of Indigenous Peoples
Rapporteurship on the Rights of Women
Rapporteurship on the Rights of Migrants
Special Rapporteurship for Freedom of Expression
Rapporteurship on the Rights of the Child
Rapporteurship on Human Rights Defenders
Rapporteurship on the Rights of Persons Deprived of Liberty
Rapporteurship on the Rights of Afro-Descendants and against Racial Discrimination
Rapporteurship on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons
Unit on Economic, Social and Cultural Rights ⁸³³
<p><i>Each rapporteurship’s contact information and website are available here:</i> http://www.oas.org/en/iachr/indigenous/default.asp</p> <p><i>All questionnaires are available here:</i> http://www.oas.org/en/iachr/reports/questionnaires.asp</p>

⁸³² Inter-American Commission on Human Rights, “Thematic Rapporteurships and Units,” accessed Dec. 9, 2013, <http://www.oas.org/en/iachr/mandate/rapporteurships.asp>.

⁸³³ Ibid.

The screenshot shows the IACHR website interface. At the top, there is the Organization of American States logo and the text 'Organization of American States' and 'Democracy for peace, security, and development'. A navigation menu includes 'About the IACHR', 'Cases', 'Reports', 'Sessions & Hearings', 'Activities', 'Rapporteurships', and 'Media'. A dropdown menu under 'Reports' is open, showing options like 'Annual Reports', 'Country Reports', 'Thematic Reports', 'Reports on Petitions and Cases', and 'Questionnaires'. The main content area is titled 'Questionnaires' and features a large heading: 'Questionnaire of Consultation for a Report on Violence against Lesbian, Gay, Trans, Bisexual and Intersex Persons in the Americas'. Below this, there is a paragraph explaining the purpose of the questionnaire and a deadline of November 25, 2013. At the bottom of the main content, there are four links: 'Questionnaire in Spanish', 'Questionnaire in English', 'Questionnaire in Portuguese', and 'Questionnaire in French'. A sidebar on the left contains a list of navigation links including 'About the IACHR', 'Strengthening', 'Complaints', 'Decisions', 'Precautionary Measures', 'Hearings', 'Reports', 'Periods of Sessions', 'Activities and Initiatives', 'Media Center', 'Fellowships and Internships', and 'Links'.

Most rapporteurships link to their questionnaires under the “reports” section of the rapporteurship’s website.

c. Hearings

During each session, the IACHR conducts public hearings on a variety of human rights issues at the regional and national level. These hearings “are one of the monitoring mechanisms the IACHR uses to keep itself informed about the human rights situation in the region, in fulfillment of its mandate.”⁸³⁴ The commission views hearings as “an essential tool to raise awareness about current subjects involving human rights situations in the member countries.”⁸³⁵ Most hearings do not involve the IACHR’s petition and case system, and the IACHR does not require exhaustion of domestic remedies in order to consider a human rights issue in the context of a hearing.⁸³⁶

⁸³⁴ Press Release, Inter-American Commission on Human Rights, Annex to the Press Release Issued at the Close of the 149th Session, No. 83A/13 (Nov. 8, 2013). Also available online at http://www.oas.org/en/iachr/media_center/PReleases/2013/083A.asp.

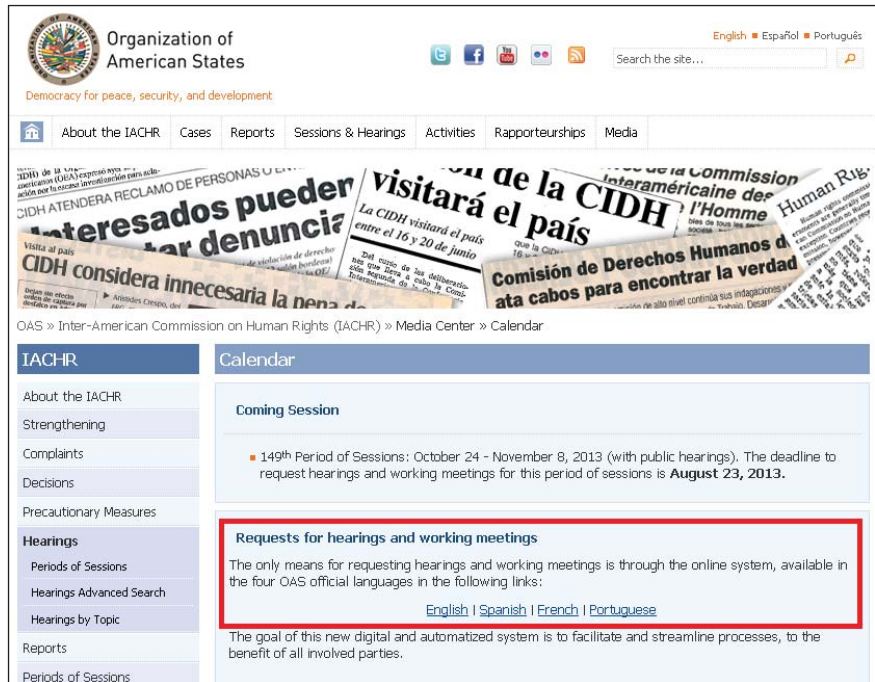
⁸³⁵ Ibid.

⁸³⁶ Ibid.

Individuals and civil society organizations may request topics for hearings and working meetings for upcoming IACHR sessions. The IACHR uses an online request form to receive these requests.

d. Country Visits

The IACHR, either as a whole or through one of its rapporteurships, often conducts country visits to investigate particular human rights issues. For example, in December 2013, the IACHR conducted a visit to the Dominican Republic “to analyze the human rights situation in the Dominican Republic regarding the rights to nationality, identity, equality,



and nondiscrimination, along with other related rights and issues.”⁸³⁷ The commission typically meets with a broad range of government representatives as well as civil society organizations. In many cases, the IACHR will also receive complaints as part of the visit.⁸³⁸ Interested individuals can learn about upcoming visits by monitoring the IACHR’s press releases: http://www.oas.org/en/iachr/media_center/PReleases/2013/095.asp. At the end of the country visit, the commission issues preliminary observations, including conclusions and recommendations, and it later publishes a report about its visit.⁸³⁹

Civil society groups can participate in the country visit process by encouraging the commission to visit a country, lobbying a country to invite the IACHR for a country visit, participating in civil society consultations during the visit, and submitting written information to the commission as it prepares its report on the visit.

ii. The Inter-American Court of Human Rights

The Inter-American Court of Human Rights (Inter-American Court) has judicial and advisory functions. For claims against countries, the Inter-American Court has jurisdiction only if the country’s government has elected to recognize the court’s “contentious jurisdiction”—either in a particular case or in general.⁸⁴⁰ Only the IACHR and State Parties to the American Convention may submit cases to the Inter-American Court.⁸⁴¹ They may do so only as part of the individual petition process, after the IACHR transmits its preliminary report to the country that is the subject of the communication. The IACHR may refer a case to the Inter-American Court only if it concludes that the government has not complied with the commission’s recommendations.⁸⁴²

⁸³⁷ Press Release, IACHR, IACHR Will Conduct On-Site Visit to the Dominican Republic, No. 95/13 (Nov. 27, 2013). Also available online at http://www.oas.org/en/iachr/media_center/PReleases/2013/095.asp.

⁸³⁸ *Ibid.*

⁸³⁹ Inter-American Commission on Human Rights, *Preliminary Observations from the IACHR’s Visit to the Dominican Republic*, Dec. 6, 2013, http://www.oas.org/en/iachr/media_center/PReleases/2013/097A.asp.

⁸⁴⁰ Organization of American States, “IACHR, Introduction,” *supra* note 809.

⁸⁴¹ Inter-American Commission on Human Rights (IACHR), *American Convention on Human Rights*, *supra* note 816, at Art. 61(1).

⁸⁴² IACHR, *Rules of Procedure of the Inter-American Commission on Human Rights*, *supra* note 819, Art. 44(3), Art. 45.

Countries that have Recognized the Inter-American Court's Contentious Jurisdiction ⁸⁴³	
Argentina	Guatemala
Barbados	Haiti
Bolivia	Honduras
Brazil	Mexico
Chile	Nicaragua
Colombia	Panama
Costa Rica	Paraguay
Dominican Republic	Peru
Ecuador	Suriname
El Salvador	Uruguay
Venezuela	

Even though individual petitioners cannot bring their cases directly to the Inter-American Court, they have an important, autonomous role to play in the court's proceedings. After a case has been submitted to the court, the alleged victims may submit their own brief, along with evidence and motions.⁸⁴⁴ Alleged victims can also participate in the court's public hearings.⁸⁴⁵ Victims may testify and present oral arguments,⁸⁴⁶ and the court may allow victims to make statements electronically.⁸⁴⁷ Victims may also question other victims, witnesses, and expert witnesses who give statements to the court.⁸⁴⁸ Under the court's rules, "States may not institute proceedings against witnesses, expert witnesses, or alleged victims, or their representatives or legal advisers, nor exert pressure on them or on their families on account of statements, opinions, or legal defenses presented to the Court."⁸⁴⁹

Individuals and civil society organizations may submit *amicus curiae* briefs to the Inter-American Court for consideration during contentious proceedings at any point up to 15 days after the public hearing in a case.⁸⁵⁰ They may also submit *amicus curiae* briefs when the court has proceedings on provisional measures and on monitoring compliance with judgments.⁸⁵¹ If the court does not hold a public hearing in a matter, *amicus curiae* briefs are due 15 days after the court issues an order setting deadlines for the submission of final arguments.⁸⁵²

⁸⁴³ <http://www.corteidh.or.cr/index.php/en/court-today/denuncias-consultas>.

⁸⁴⁴ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, *supra* note 819, at Art. 25(1).

⁸⁴⁵ *Ibid.*, Art. 25(2).

⁸⁴⁶ *Ibid.*, Art. 51(6)–(7).

⁸⁴⁷ *Ibid.*, Art. 51(11).

⁸⁴⁸ *Ibid.*, Art. 52(2).

⁸⁴⁹ *Ibid.*, Art. 53.

⁸⁵⁰ *Ibid.*, Art. 44.

⁸⁵¹ *Ibid.*, Art. 44(4).

⁸⁵² *Ibid.*, Art. 44.

Provisional Measures

The Inter-American Court may adopt provisional measures “to avoid irreparable damage to persons” “[i]n cases of extreme gravity and urgency.”⁸⁵³ If such a case is not yet before the court, the IACHR may request that the court adopt provisional measures.⁸⁵⁴ If a case is before the court, victims may request provisional measures.⁸⁵⁵ When the court adopts provisional measures, it monitors whether the measures are implemented.⁸⁵⁶ Beneficiaries of provisional measures (such as victims) can submit their observations to the court about whether and how the government has implemented the measures.⁸⁵⁷

Any country that is a member of the OAS may seek an advisory opinion from the Inter-American Court.⁸⁵⁸ The Inter-American Court can issue advisory opinions about the meaning of the American Convention and other human rights treaties in the Inter-American system. It can also issue advisory opinions on domestic laws and whether they are consistent with the human rights standards in the Inter-American system.⁸⁵⁹

Inter-American Commission Refers case of the Kuna Indigenous People of Madungandí and Emberá Indigenous People of Bayano to the Inter-American Court

In 2013, the Inter-American Commission referred the case of the Kuna Indigenous People of Madungandí and Emberá Indigenous People of Bayano and their members against the State of Panama to the Inter-American Court. The State of Panama had failed to pay economic compensation to the indigenous peoples for the dispossession and flooding of their ancestral territories stretching back as far as 1969. The Inter-American Commission chose to refer the case to the Inter-American Court in order to push for compensation and to mandate that the State of Panama work to preserve the human rights of the indigenous groups, including by returning them to their ancestral lands.⁸⁶⁰



Flooding in a Kuna community in Panama

⁸⁵³ Inter-American Commission on Human Rights (IACHR), American Convention on Human Rights, *supra* note 816, at Art. 63(2).

⁸⁵⁴ *Ibid.*

⁸⁵⁵ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, 2009, *supra* note 819, at Art. 27(3).

⁸⁵⁶ *Ibid.*, Art. 27(7)–(8).

⁸⁵⁷ *Ibid.*, Art. 27(7).

⁸⁵⁸ Inter-American Commission on Human Rights, “Basic Documents in the Inter-American System,” accessed Jan. 9, 2014, <http://www.oas.org/en/iachr/mandate/Basics/intro.asp>; Inter-American Commission on Human Rights (IACHR), American Convention on Human Rights, *supra* note 816, Art. 64.

⁸⁵⁹ Inter-American Commission on Human Rights, “Basic Documents in the Inter-American System,” *supra* note 858.

⁸⁶⁰ Organization of American States, “IACHR Takes Case involving Panama to the Inter-American Court,” Apr. 4, 2013, http://www.oas.org/en/iachr/media_center/PReleases/2013/022.asp.

Strategic Advocacy at the Inter-American Court: Centro por la Justicia y el Derecho Internacional



Family members of the victims of the Cantuta Massacre march against impunity in 2011

The Center for Justice and International Law (CEJIL) works for the protection and promotion of human rights in the Americas by responding to human rights abuses committed by state officials, fighting impunity, reducing inequality and exclusion in the region through the right to equality and respect for human dignity, strengthening rule of law, democracy, civil society, and increasing the effectiveness of the Inter-American system and access to justice. CEJIL was founded in 1991 by a group of human rights defenders in Caracas, Venezuela. It now has offices in Buenos Aires, Argentina; Rio de Janeiro, Brazil; San Jose, Costa Rica, and Washington, D.C.

CEJIL currently represents, together with approximately 380 partner organizations, over 13,000 victims and beneficiaries in more than 200 cases before the Inter-American Commission of Human Rights and the Inter-American Court of Human Rights. CEJIL follows a “cooperative litigation model,” working on equal terms with human rights defenders and civil society organizations. For example, CEJIL, along with the Association for Human Rights and the Center for Studies and Action for Peace (CEAPAZ), took on a central role in re-opening a case concerning the Cantuta Massacre in Peru. In 1992, members of the military had massacred nine students and a professor at the National University “Enrique Guzman y Valle” in Peru. Two years later, a military court sentenced ten members of the military for their role in the massacre, but in 1995, the Peruvian Congress adopted an amnesty law freeing the people who had been sentenced. CEJIL took on the case on behalf of the families of three of the victims. In 2006, the Inter-American Court of Human Rights condemned Peru for these systematic arbitrary executions, and the court rendered Peru’s amnesty law invalid.

In its work to strengthen the Inter-American System, CEJIL monitors the implementation of the decisions of the Inter-American Commission and Court to ensure that victims receive proper reparations and that States enact structural changes to address systemic human rights violations. In 2008, CEJIL published a Best Practices Report on National Implementation of Decisions by the Inter-American System.⁸⁶¹

⁸⁶¹ CEJIL, “Publication,” accessed Jan. 9, 2013, <http://cejil.org/en/publicaciones/implementation-decisions-inter-american-human-rights-system-jurisprudence-regulations->.

Incorporating Research, Litigation, and Advocacy in the Inter-American System: Comisión Colombiana de Juristas

Comisión Colombiana de Juristas (Colombian Commission of Jurists) is a non-governmental organization of lawyers working to protect and promote human rights in Colombia and worldwide by supporting the development of international human rights and humanitarian law. Founded in 1998, the Colombian Commission of Jurists (CCJ) is based in Bogota, Colombia and is affiliated with the International Commission of Jurists and Andean Commission of Jurists. One CCJ program works to strengthen the rule of law in Colombia and to work for positive peace through human rights and transitional justice. Another CCJ program seeks to develop instruments of international law by working for human rights promotion in the Americas. CCJ focuses its efforts on the most vulnerable groups of people in Colombia, including Indigenous Peoples, Afro-Colombians, women, children, displaced persons, and peasants.



Camilo Mejía of the Comisión Colombiana de Juristas argues on behalf of a petitioner before the Inter-American Commission on Human Rights in 2012

CCJ undertakes research, litigation, and advocacy. CCJ researches human rights issues in Colombia, and CCJ maintains a database of human rights violations. CCJ then uses these data to write reports to the Inter-American Commission, UN human rights mechanisms, and the International Criminal Court, among others. CCJ represents victims before both national and international courts, including the Inter-American Commission and the Inter-American Court. CCJ focuses its advocacy efforts on influencing the Colombian Congress and Constitutional court. It also urges the Colombian Government to adopt human rights bodies' recommendations. In 1996, CCJ pressed for the enactment of Law 288, which requires that the Government of Colombia treat all of the Inter-American Commission's recommendations in individual cases as mandatory.

C. The African System



The African human rights system is the “youngest” regional system. One distinctive feature of this system is its recognition of collective, or “peoples” rights. It views individual and peoples’ rights as linked.⁸⁶² Another distinctive feature of the African system is the recognition of the right to development.

The relevant human rights treaties for the African system are:

⁸⁶² United Nations: Enable, “International Norms and Standards Relating to Persons with Disabilities, Part III. The Regional Human Rights System,” accessed Oct. 2013, <http://www.un.org/esa/socdev/enable/comp303.htm>.

- Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa (1969)⁸⁶³
- African Charter on Human and Peoples' Rights (1981)⁸⁶⁴
- African Charter on the Rights and Welfare of the Child (1990)⁸⁶⁵
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (1998)⁸⁶⁶
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)⁸⁶⁷
- 2011 African Charter on Democracy, Elections and Governance (2011)⁸⁶⁸

i. The African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (ACHPR, African Commission) is the primary human rights monitoring mechanism of the African Charter on Human and Peoples' Rights.⁸⁶⁹ The commission is based in Banjul, The Gambia, and consists of 11 commissioners elected by the African Union assembly for six-year renewable terms.⁸⁷⁰ The ACHPR serves many functions, including:

- Deciding whether alleged human rights abuses violate the African Charter;
- Making recommendations to governments about promoting and protecting human rights and addressing past violations;
- Organizing seminars and conferences;
- Conducting country promotional visits;
- Disseminating reports on various human rights issues;
- Interpreting the African Charter; and
- Investigating human rights violations through fact-finding missions.

Civil society plays a pivotal role in the activities of the commission and can engage with the commission in a range of ways to further advocate on issues of concern:⁸⁷¹

- Alert the commission to violations of the African Charter;
- Submit communications/complaints on behalf of individuals whose rights have been violated;
- Monitor governments' compliance their obligations under the African Charter and other human rights treaties;
- Attend the commission's public sessions;
- Submit shadow reports as part of the periodic reporting process;
- Publicize and conduct advocacy about the commission's concluding observations; and
- Increase awareness about the commission's activities.

⁸⁶³ ACHPR, "AU Convention Governing Specific Aspects of Refugee Problems in Africa," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/refugee-convention/>.

⁸⁶⁴ ACHPR, "African Charter on Human and Peoples' Rights," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/achpr/>.

⁸⁶⁵ ACHPR, "African Charter on the Rights and Welfare of the Child," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/child/>.

⁸⁶⁶ ACHPR, "Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/court-establishment/>.

⁸⁶⁷ ACHPR, "Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/women-protocol/>.

⁸⁶⁸ ACHPR, "African Charter on Democracy, Elections and Governance," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/charter-democracy/>.

⁸⁶⁹ Malcolm Evans and Rachel Murray, *The African Charter on Human and Peoples' Rights: The System in Practice 1986–2006*, (Cambridge University Press, 2008).

⁸⁷⁰ African Commission on Human and Peoples' Rights, "History," accessed Oct. 2013, <http://www.achpr.org/about/history/>.

⁸⁷¹ African Commission on Human and Peoples' Rights, "Network," accessed Oct. 2013, <http://www.achpr.org/network/>.

Periodic Reporting Process

The African Commission's periodic reporting process presents an important opportunity for a government to evaluate what has been achieved and what more needs to be done to advance human rights in the country. All countries that have adopted the African Charter (all African countries except Morocco) must submit periodic reports to the commission about the government's measures to implement and comply with the provisions of the African Charter.⁸⁷² The African Commission states that these reports act as the "most effective means by which the commission can ensure the promotion and protection of human and peoples' rights."⁸⁷³ The goal of the reporting system is to establish a framework for constructive dialogue between the commission and the governments of countries that are members of the African Union.⁸⁷⁴ The commission publishes the government reports on its website, engaging and educating the public about human rights practices in these countries.

After a government submits its periodic report, the commission schedules an in-person review for an upcoming session. At this time, civil society, including "institutions, organizations or any interested party," may contribute to the African Commission's examination of the report and the human rights situation in the country by submitting "shadow reports."⁸⁷⁵ Shadow reports often identify omissions and discrepancies in the government reports, and they shed more light on the realities on the ground. Shadow reports are typically due 60 days before the first day of the session. Civil society groups also lobby the commissioners to encourage them to raise certain concerns during the in-person review.

The commission considers government reports during a public meeting. This consideration takes the form of a dialogue between official representatives of the country under review and the commissioners.⁸⁷⁶ After the in-person dialogue, the commissioners meet in a closed session to decide on comments and recommendations for the government of the country under review. The African Commission then issues concluding observations and recommendations, which it publishes on its website.⁸⁷⁷

How to submit a shadow report to the African Commission

The African Commission does not require any particular format for shadow reports, but organizations should include the country's name, the organization's name and the session number and dates at the top of the first page. To view the schedule and other guidance for participating in sessions, please visit:

<http://www.achpr.org/sessions/>.

It may be useful to structure the report by the relevant rights enumerated in the African Charter on Human and Peoples' Rights. Shadow reports should make reference to the government's report, or to the lack of a government report, and should comment on any relevant information provided in the government report.⁸⁷⁸

Government reports are available here: <http://www.achpr.org/states/reports-and-concluding-observations/>.

⁸⁷² African Commission on Human and Peoples' Rights, "Home," accessed Oct. 2013, <http://www.achpr.org/>.

⁸⁷³ African Commission on Human and Peoples' Rights, "Reporting Procedures," accessed Oct. 2013, <http://www.achpr.org/states/reporting-procedure/>.

⁸⁷⁴ Ibid.

⁸⁷⁵ African Commission on Human and Peoples' Rights, "Network," accessed Oct. 2013, <http://www.achpr.org/network/>.

⁸⁷⁶ African Commission on Human and Peoples' Rights, "African Commission on Human and Peoples' Rights: State Reporting Procedure," in *A Conscientious Objector's Guide to the International Human Rights System*, accessed Oct. 2013, <http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-state-reporting-procedure>.

⁸⁷⁷ African Commission on Human and Peoples' Rights, Rules of Procedure of the African Commission on Human and Peoples' Rights, 2010, Rule 77(3). Available online at http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf.

⁸⁷⁸ African Commission on Human and Peoples' Rights, "African Commission on Human and Peoples' Rights: State Reporting Procedure," *supra* note 876.

Advocates may also want to include suggested recommendations and questions in their shadow reports. These recommendations and questions can assist the ACHPR's Commissioners as they prepare for the in-person dialogue, and as they draft their concluding observations and recommendations.⁸⁷⁹

Reports are due two months before the session when the Commission conducts its in-person review of the government's report. For further guidance on how to submit a shadow report, please see Appendix M, "10 steps to Writing a Shadow Report," and Appendix P, a shadow report template for the African Commission.

Resources on Shadow Reporting to the African Commission

ACHPR: Rules of Procedure of the African Commission on Human and Peoples' Rights

http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf

ACHPR: Information Sheet No 4: State Reporting Procedure

http://old.achpr.org/english/information_sheets/ACHPR%20inf.%20sheet%20No.4.doc

Road map for civil society engagement: State reporting procedure of the ACHPR

http://www.conectas.org/arquivos/Conectas_Roadmap_AfricanCommission_ENG.pdf

Sample NGO Shadow Report Submissions to the African Commission:

- FIDH: Shadow Report on Ethiopia: <http://www.fidh.org/IMG/pdf/HRsituationEthiopie.pdf>
- Media Institute of South Africa, The Program of International Human Rights Law of Indiana University: Shadow Report on Zambia: <http://indylaw.indiana.edu/humanrights/shadowreports/Zambia%20Press%20Freedom.pdf>
- Amnesty International, Human Rights Watch, International Bar Association and Redress: Shadow Report on Zimbabwe: <http://www.amnesty.org/en/library/info/AFR46/016/2007>

Civil society groups may send shadow reports directly to the African Commission Secretariat:

The African Commission on Human and Peoples' Rights

31 Bijilo Annex Layout, Kombo North District, Western Region

P.O. Box 673

Banjul, The Gambia

Email: au-banjul@africa-union.org

Other advocacy opportunities during the periodic reporting process

Effective civil society organizations do more than simply submit shadow reports to the African Commission. They also engage with the African Commission before, during, and after the commission's consideration of a government report. Individual commissioners are assigned to particular countries and particular human rights working groups and rapporteurships; advocates should identify the relevant commissioners and try to forge collaborative relationships with them throughout the process. The commissioner responsible for promotional activities in a particular country is also usually the rapporteur to lead the commission's discussion of the government's report.⁸⁸⁰

⁸⁷⁹ International Working Group for Indigenous Affairs, "ACHPR Sessions," accessed Oct. 2013, <http://www.iwgia.org/human-rights/regional-bodies-and-mechanisms/african-commission-on-human-and-peoples-rights/achpr-sessions>.

⁸⁸⁰ African Commission on Human and Peoples' Rights, "African Commission on Human and Peoples' Rights: State Reporting Procedure," *supra* note 876.

African Commissioners and their Country and Other Assignments (as of 2014)

Commissioner	Countries	Other Assignments
Faith Pansy Tlakula	Lesotho Mauritius Namibia Sierra Leone South Sudan Swaziland	<ul style="list-style-type: none"> • Special Rapporteur on Freedom of Expression and Access to Information • Working Group on Rights of Older Persons and People with Disabilities • Working Group on Specific Issues Related to the work of the African Commission (chairperson)
Lawrence Murugu Mute	Ethiopia Gambia Liberia Sudan	<ul style="list-style-type: none"> • Committee for the Prevention of Torture in Africa (chairperson) • Working Group on Rights of Older Persons and People with Disabilities • Working Group on Extractive Industries, Environment and Human Rights Violations
Lucy Asuagbor	Malawi Nigeria Rwanda Uganda Zimbabwe	<ul style="list-style-type: none"> • Committee for the Prevention of Torture in Africa • Working Group on Communications (chairperson) • Working Group on Specific Issues Related to the work of the African Commission • Working Group on Indigenous Populations/Communities in Africa • Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV (chairperson)
Maya Sahli Fadel	Burkina Faso Egypt Guinea Senegal Tunisia	<ul style="list-style-type: none"> • Working Group on Economic, Social and Cultural Rights • Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons • Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa
Med S.K. Kaggwa	Botswana Eritrea Somalia South Africa Zambia	<ul style="list-style-type: none"> • Special Rapporteur on Prisons and Conditions of Detention • Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa • Committee for the Prevention of Torture in Africa • Advisory Committee on Budgetary and Staff Matters (chairperson) • Working Group on Specific Issues Related to the work of the African Commission
Mohamed Bechir Khalfallah	Central African Republic Chad Mauritania Sahrawi Arab Democratic Republic	<ul style="list-style-type: none"> • Advisory Committee on Budgetary and Staff Matters • Working Group on Economic, Social and Cultural Rights (chairperson)
Pacifique Manirakiza	Benin Guinea-Bissau Kenya Mozambique Tanzania	<ul style="list-style-type: none"> • Working Group on Extractive Industries, Environment and Human Rights Violations (chairperson) • Working Group on Communications • Working Group on Indigenous Populations/Communities in Africa

Commissioner	Countries	Other Assignments
Reine Alapini-Gansou	Cameroon Cape Verde Democratic Republic of the Congo Mali Togo	<ul style="list-style-type: none"> Working Group on Rights of Older Persons and People with Disabilities Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV Working Group on Communications Advisory Committee on Budgetary and Staff Matters Special Rapporteur on Human Rights Defenders
Soyata Maiga	Angola Congo Equatorial Guinea Libya Niger	<ul style="list-style-type: none"> Working Group on Specific Issues Related to the work of the African Commission Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV Working Group on Indigenous Populations/Communities in Africa (chairperson) Advisory Committee on Budgetary and Staff Matters Working Group on Economic, Social and Cultural Rights Working Group on Indigenous Populations/Communities in Africa (chairperson) Special Rapporteur on Rights of Women
Yeung Kam John Yeung Sik Yuen	Comoros Ghana Madagascar Sao Tome and Principe Seychelles	<ul style="list-style-type: none"> Working Group on Rights of Older Persons and People with Disabilities (chairperson) Working Group on Communications Working Group on Extractive Industries, Environment and Human Rights Violations
Zainabo Sylvie Kayitesi	Algeria Burundi Côte d'Ivoire Djibouti Gabon	<ul style="list-style-type: none"> Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa (chairperson) Working Group on Extractive Industries, Environment and Human Rights Violations
<p><i>Updated assignments and contact information for the individual commissioners are available here: http://www.achpr.org/about/ (last visited Jan. 31, 2014).</i></p>		

NGOs with observer status may make comments on a particular government report by speaking on other agenda items during the same session. Many issues can be addressed as part of either the agenda item on the general situation of human rights in Africa or one of the thematic agenda items.

The African Commission's concluding observations serve as the official record of the commission's stance on the human rights situation in the country under review.⁸⁸¹ The concluding observations can therefore be effective advocacy tools for lobbying activities and awareness-raising. Groups can also share other public reports of the commission, including as mission reports, communiqués on sessions, and press releases from special rapporteurs. The ACHPR makes these reports available on its website here: <http://www.achpr.org/search/>.

⁸⁸¹ International Working Group for Indigenous Affairs, "ACHPR Sessions," *supra* note 879.

Organizations should also monitor the government's compliance with the commission's recommendations and resolutions, and they should share their findings with media and civil society partners.⁸⁸²

Public sessions

The Commission holds two ordinary sessions and at least one extraordinary session each year. Each ordinary session lasts approximately two weeks.⁸⁸³ As discussed above, NGOs with observer status may speak during the African Commission's public sessions. The commission posts an invitation and an agenda on its website at least four weeks before each session. To view the schedule, past records, and other guidance for participating in sessions, please visit: <http://www.achpr.org/sessions/>.

Interventions

NGOs with observer status may participate in and speak during the public discussion portions of a session. NGOs that do not have observer status may attend the ordinary session but do not have the right to speak.⁸⁸⁴ NGOs with observer status must register to attend a session by submitting a registration form, available on the African Commission's website.⁸⁸⁵

Civil society organizations with observer status are allowed to make one intervention, or statement, per agenda item, and they usually have three to five minutes to speak. NGOs most frequently comment on two agenda items: (1) the human rights situation in Africa; and (2) the presentation of reports from special rapporteurs or working groups. These types of agenda items are sufficiently broad to encompass most of the specific concerns and issues that NGOs bring to the session.⁸⁸⁶

At the beginning of the session, NGOs should notify the Secretariat that they wish to take the floor to speak on particular agenda items.⁸⁸⁷ Organizations may wish to provide commissioners, the Secretariat, and other participants with written copies of their oral statements. Ideally, organizations should make their statements available in more than one language, as some officials are not fluent in all of the official languages of the commission. In addition, government delegations in attendance can exercise their right of reply to present their position.

Organizations are not permitted, however, to make statements on agenda items concerning a country's periodic report, a country's compliance with the African Charter, or the commission's decisions on granting observer status to other organizations.⁸⁸⁸ It is therefore important for organizations to lobby commissioners so that they will ask specific questions of the government delegations when they present their reports. Civil society organizations may also wish to provide commissioners with supplemental written information to help them assess the government report.

Observer Status

For information on how to apply for observer status with the African Commission, see Chapter 11, Part C(2). For information about the benefits of observer status, visit:

<http://www.pijip-impact.org/wp-content/uploads/2012/04/OBTAINING-AND-THE-BENEFITS-OF-OBSERVER-STATUS.pdf>

⁸⁸² IFEX, "Guide to the ACHPR," accessed Oct. 2013, http://www.ifex.org/campaigns/afriican_commission/.

⁸⁸³ ACHPR, Rules of Procedure of the African Commission on Human and Peoples' Rights, *supra* note 877, Rules 25(1), 26(1).

⁸⁸⁴ African Commission on Human and Peoples' Rights, "Sessions," accessed Oct. 2013, <http://www.achpr.org/sessions/>.

⁸⁸⁵ ACHPR, "52nd Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR)," accessed Jan. 9, 2014, http://www.achpr.org/files/sessions/52nd/info/information-for-participants/achpr52_partinf_2012_eng.pdf. (A detailed description of the information provided to participants is available online.)

⁸⁸⁶ IFEX, "Guide to the ACHPR," *supra* note 882.

⁸⁸⁷ *Ibid.*

⁸⁸⁸ *Ibid.*

Parallel events and other activities

During sessions, organizations also host side events, such as seminars, training sessions, and presentations by human rights defenders, on particular human rights themes.⁸⁸⁹ Groups may wish to invite Commissioners and government officials to these events. In addition, an organization's representatives can informally approach government delegates and Commissioners during breaks to highlight particular concerns and share information.

NGO Forum

For three days before each ordinary session of the African Commission, the African Center for Democracy and Human Rights Studies hosts an NGO Forum for civil society organizations planning to participate in the upcoming session. Participants may attend planning meetings, training workshops, and other activities during the forum. Sometimes the NGO Forum will adopt resolutions and forward them to the commission for consideration. A representative from the NGO Forum delivers an oral statement and a written report to the African Commission at the beginning of each ordinary session. For more information about the NGO Forum, visit: www.acdhrs.org/.

Communications Procedure

The African Commission is empowered to receive and consider complaints or "communications." States, individuals, and other organizations may submit communications alleging that a country that is a party to the African Charter on Human and Peoples' Rights has violated one or more of the rights identified in the charter. NGOs do not need observer status to submit a communication. The communications procedure is judicial in nature and leads to a definitive declaration of whether a government has violated the African Charter. Between 1988 and 2012, the African Commission received over 400 communications and issued approximately 200 decisions.

Steps in the communications process

Step 1: Seizure.

When the African Commission receives a communication, it must first decide whether the incidents described in the submission could constitute a violation of the African Charter and whether the communication satisfies the admissibility requirements. Seven or more commissioners must indicate they are "seized" with the communication, meaning they believe it satisfies the seven requirements of Section 56 of the African Charter. For detailed guidance on these requirements, please see the text box "Checklist for Submitting a Communication to the African Commission."

Step 2: Government notification and response.

After the commission "seizes," or deems admissible, a communication, the Secretary notifies the government concerned and the author of the communication. The Secretary asks the government to make a written submission, within three months, explaining its position on the issues and, if possible, describing measures it has taken to remedy the situation. Within a time period decided upon by the commission, the complainant has an opportunity to respond to the government's submission and, if necessary, provide additional information. The commission then either seeks to obtain a friendly settlement or decides the merits of the case.⁸⁹⁰

⁸⁸⁹ Ibid.

⁸⁹⁰ Ibid.

Step 3: Friendly settlement.

If both parties are willing to settle the matter amicably, the commission will mediate a “friendly settlement” between the complainant or victim and the government.⁸⁹¹ If the parties reach an amicable resolution, the terms of the settlement are communicated to the commission at the next session. The commission’s consideration of the case then automatically ends.⁸⁹²

Step 4: Consideration of the merits.

If the parties do not reach a friendly settlement, the commissioners consider the communication in a private meeting during an ordinary session. When the African Commission considers a communication, both parties have the opportunity to make written and oral presentations.⁸⁹³ Some governments send a representative to the session to refute allegations made against them.⁸⁹⁴ NGOs may also have the opportunity to make oral presentations. It is not necessary, however, for parties to make oral presentations or to be present at the session; written submissions are sufficient. After the written and oral submissions are complete, the Secretariat of the African Commission prepares a draft decision on the merits taking into account all the facts at its disposal. This draft decision is meant to guide the commissioners in their deliberations.⁸⁹⁵

Step 5: Recommendations.

The African Commission then decides whether the government at issue has violated the African Charter. If it finds a violation, it will make recommendations to the government concerned. These recommendations may explain what the government should do to provide redress to the victim, to investigate and prosecute the perpetrators of the violation, or to prevent such abuses from occurring in the future. The African Commission includes these recommendations in its Annual Activity Reports to the African Union’s Assembly of Heads of State and Government. If adopted, they become binding on the government under consideration and are published.⁸⁹⁶

Step 6: Additional steps.

The African Commission may take additional steps in response to urgent allegations of imminent or ongoing abuse, such as an imminent execution. Under its provisional measures, it can request that a government stay proceedings or refrain from acting if the commission has reason to think the violation in question could cause irreparable harm or prejudice. In similar circumstances, but where no communication is before the commission, the commission has sent an urgent appeal to relevant government officials requesting that they cease an alleged violation against a victim.⁸⁹⁷

If a government fails to comply with the commission’s recommendations, the commission can also refer the communication to the African Court on Human and Peoples’ Rights.⁸⁹⁸ Referral is appropriate if the case involves serious and massive violations, non-implementation of the commission’s decision or request for provisional measures, or if there are other circumstances the commission determines warrant intervention from the court.

⁸⁹¹ African Commission on Human and Peoples’ Rights, “Procedure,” accessed Oct. 2013, <http://www.achpr.org/communications/procedure/>.

⁸⁹² IFEX, “Guide to the ACHPR,” *supra* note 882.

⁸⁹³ *Ibid.*

⁸⁹⁴ African Commission on Human and Peoples’ Rights, “African Commission on Human and Peoples’ Rights: State Reporting Procedure,” *supra* note 876.

⁸⁹⁵ African Commission on Human and Peoples’ Rights, “Procedure,” accessed Oct. 2013, <http://www.achpr.org/communications/procedure/>.

⁸⁹⁶ University of MN Human Rights Library, “The African Commission on Human and Peoples’ Rights Information Sheet No. 3,” accessed Oct. 2013, <http://www1.umn.edu/humanrts/africa/achpr-infosheet3.html>.

⁸⁹⁷ IHRDA and ISHR, “A Human Rights Defender’s Guide to the African Commission on Human and Peoples’ Rights,” 28 (Banjul: IHRDA and Geneva: ISHR, 2012). Also available online at http://www.ishr.ch/sites/default/files/article/files/isshr-ihirda_hrds_guide_2012-1.pdf.

⁸⁹⁸ *Ibid.*

How to submit a communication to the African Commission

Seven requirements for submitting a communication to the African Commission⁸⁹⁹

To be admissible, the communication must satisfy seven criteria:

- 1. Provide the author's name, even if the author requests anonymity.**
 - The communication should stipulate whether it is from a victim, an individual acting on the behalf of the victim, or a human rights organization.
 - The communication must include contact information for the individual or the organization's representatives.
 - An individual submitting a communication must provide his or her name, address, age, and profession. If the individual wishes to remain anonymous, he or she must expressly request anonymity.
- 2. Specify the provisions of the African Charter alleged to be violated.**
 - The communication must be brought against a State Party to the African Charter.
 - The communication must clearly identify the right(s) in the African Charter that the government has violated.
 - The communication may also highlight violations of additional principles adopted by the Commission, if relevant. The commission's declarations are available here: http://www.achpr.org/english/_info/index_declarations_en.html.
 - The communication must provide evidence to support the allegations of rights violations.
 - The violation must have occurred after the country ratified the African Charter. Dates of ratification are available here: http://www.achpr.org/english/ratifications/ratification_african%20charter.pdf.
- 3. Avoid disparaging or insulting language.**
 - Insulting language will render a communication inadmissible, regardless of the seriousness of the allegations.
- 4. Rely on first-hand information.**
 - The communication should rely, at least in part, on primary sources of information, such as personal accounts, witness statements, or government documents. Some information in the communication may be based on news disseminated through the mass media.
 - Communications based exclusively on news disseminated by the mass media are inadmissible.
- 5. Describe efforts to exhaust domestic remedies.**
 - The communication must provide evidence of efforts to exhaust domestic remedies. Such evidence could include judgments of the competent courts in the country, including the highest court.
 - If the author of the communication has not exhausted domestic remedies, the author must explain why. See "Practitioner's tip: Three criteria for determining whether a domestic remedy is required."
- 6. Be timely.**
 - The African Commission has determined that communications should usually be submitted no later than six months after exhaustion of domestic remedies.
 - The African Commission may consider a communication submitted later if the communication includes a compelling reason for the delay.
- 7. Not request reexamination of a case that has been decided on the merits.**
 - The African Commission will not take a case that has already reached a final settlement on the

⁸⁹⁹ IFEX, "Guide to Submitting a Complaint to the ACHPR," accessed Oct. 2013, http://ifex.org/campaigns/african_commission/index1.php.

merits in accordance with the principles of the African Charter or the UN Charter.

- The African Commission may consider a case that has already been examined, so long as no action was taken and no pronouncements were made on the merits of the case.

Practitioner's tip: Three criteria for determining whether a domestic remedy is required⁹⁰⁰

The remedy must be:

- Available - the applicant can pursue a remedy without impediments;
- Effective - the remedy offers a prospect of success;
- Sufficient - the remedy could redress the complaint.

A remedy is insufficient if:

- The applicant cannot turn to the judiciary of their country because the applicant has a generalized fear for his or her life;
- The remedy depends on extrajudicial considerations, such as discretion or some extraordinary power vested in an executive official; or
- The violation took place in the context of massive violations of human rights and the government took no steps to prevent or stop the violations.

In addition to the seven admissibility criteria, the communication may include a request that the African Commission adopt interim or provisional measures. These measures are steps that the commission can take before it considers the merits in order to prevent irreparable harm to a victim.⁹⁰¹ For example, an NGO might request that the commission ask the government not to execute the alleged victim until the commission has an opportunity to consider the communication.

In cases of mass human rights violations, organizations should collaborate to submit multiple communications. The African Union Assembly is more likely to call for an investigation if the African Commission presents multiple communications addressing the same set of serious human rights violations.⁹⁰²

Resources for Submitting a Communication to the African Commission

ACHPR: Rules of Procedure of the African Commission on Human and Peoples' Rights

http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf

ACHPR: Information Sheet No. 3: Guidelines for Submission of Communications

http://www.achpr.org/files/pages/communications/guidelines/achpr_infosheet_communications_eng.pdf

ACHPR: Information Sheet No. 3: Communication Procedure

<http://www1.umn.edu/humanrts/africa/achpr-infosheet3.html>

A Human Rights Defenders' Guide to the African Commission, "Part II: Protection of Human Rights Defenders by the African Commission."

by Institute for Human Rights and Development in Africa (IHRDA) /International Service for Human Rights

⁹⁰⁰ Ibid.

⁹⁰¹ IFEX, "Guide to the ACHPR," *supra* note 882.

⁹⁰² IFEX, "Guide to Submitting a Complaint to the ACHPR," *supra* note 899.

(ISHR) http://www.ishr.ch/sites/default/files/article/files/ishr-ihda_hrds_guide_2012-1.pdf

Special mechanisms

The African Commission creates subsidiary or “special” mechanisms such as special rapporteurs, committees, and working groups in response to specific human rights concerns. Most special mechanisms are mandated to promote specific areas of human rights, to make recommendations, to disseminate information, and to carry out research in their areas of focus. The commission determines the mandate and the terms of reference for each special mechanism. At each ordinary session, each special mechanism presents a report on its work.⁹⁰³

Current Special Mechanisms of the African Commission	
Special Rapporteurs:	Working Groups and Committees:
Human Rights Defenders	Economic, Social and Cultural Rights
Freedom of Expression and Access to Information	Death Penalty and Extra-Judicial, Summary, or Arbitrary Killings in Africa
Rights of Women	Indigenous Populations / Communities in Africa
Prisons and Conditions of Detention	Rights of Older Persons and People with Disabilities
Refugees, Asylum Seekers, Migrants, and Internally Displaced Persons	Extractive Industries, Environment, and Human Rights Violations
	Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to, and Affected by HIV
	Prevention of Torture in Africa

More information on each of these mechanisms (including mandate, mission reports, press releases, and relevant resolutions) is available here: <http://www.achpr.org/mechanisms/>. See Appendix K for contact information.

Special mechanisms receive information about violations in their areas of concern, publish urgent appeals and press releases on specific human rights violations, conduct official fact-finding missions to evaluate the human rights situation in a particular country, and make recommendations on how governments can improve human rights in their specific area of concern. Working groups are primarily mandated to develop guidelines on the protection of specific rights. Those guidelines may later serve as the basis for draft conventions and protocols.⁹⁰⁴

Special rapporteurs and working groups often conduct fact-finding missions. The commission does not need permission to conduct fact-finding or investigative missions, as long as either the AU General Assembly, the AU Chairperson, or the AU Peace and Security Council approves the mission. During investigative visits, the special

⁹⁰³ ACHPR, “Special Mechanisms,” accessed Oct. 2013, <http://www.achpr.org/mechanisms/>.

⁹⁰⁴ International Federation for Human Rights – FIDH, *Practical Guide - The African Court on Human and Peoples’ Rights* (Paris: FIDH, April 2010), 25. Also available online at http://www.fidh.org/IMG/pdf/african_court_guide.pdf.

mechanism members try to meet with government officials, police authorities, NGOs, and the country's national human rights institutions. They may also visit prisons, refugee camps, and other sites.⁹⁰⁵

Following a promotional or investigative trip, the special mechanism submits a "mission report" for adoption by the African Commission in a private meeting. As part of the process, the commission sends the draft report to the government concerned for its observations and input before the commission publishes the report. This procedure can sometimes delay the publication process further. Once the commission adopts a mission report, it publishes and posts it on its website. The African Commission is currently working on adapting procedures so that it can release mission reports in a timelier manner.⁹⁰⁶

How to engage with special mechanisms

Call for and assist with fact-finding missions.

Civil society organizations can encourage special mechanisms to conduct fact-finding missions and country visits by addressing requests to the Chairperson or Secretary of the Commission or directly to the special rapporteur or working group that would be likely to conduct such a mission.⁹⁰⁷ If the special mechanism decides to undertake a mission, NGOs can bolster the special mechanism's work by providing information, reports, and advice on places to visit and people to contact ahead of the visit. NGOs can also assist by raising awareness about country visits with local NGOs, media, and relevant stakeholders.

Provide information on human rights abuses.

The special mechanisms receive and respond to information on human rights developments, both negative and positive.⁹⁰⁸ Civil society can provide valuable information to the special rapporteurs and working groups about human rights situations on the ground or about specific violations of rights. Groups can present this information to the special mechanisms in the form of research reports, press releases, studies, or informational letters.

Submit cases of alleged human rights violations.

Organizations can submit cases directly to special rapporteurs, who may decide to take up such cases directly with the relevant government. Special rapporteurs may request that the government respond to the allegations, or may issue a press release on a specific human rights violation. This process can be effective in prompting government action directly and through international pressure.⁹⁰⁹

Use mission reports and press releases in advocacy.

Press releases and mission reports from special rapporteurs and working groups provide strong advocacy materials for organizations. Advocates can further publicize these reports and press releases to influence public opinion and to push for government reforms. Mission reports also contain authoritative recommendations by the Commissioners to the country concerned. Organizations can use these recommendations to support their own work by disseminating them locally and internationally and by monitoring the steps the government takes to comply with them.⁹¹⁰

⁹⁰⁵ IFEX, "Guide to the ACHPR," *supra* note 882.

⁹⁰⁶ *Ibid.*

⁹⁰⁷ *Ibid.*

⁹⁰⁸ IHRDA and ISHR, "A Human Rights Defender's Guide to the African Commission on Human and Peoples' Rights," *supra* note 897, at 34.

⁹⁰⁹ Amnesty International, *A Guide to the African Commission on Human and Peoples Rights* (London: Amnesty International, 2007), 32. Also available online at <http://www.amnesty.org/en/library/asset/IOR63/005/2007/en/6796e85a-d36a-11dd-a329-2f46302a8cc6/ior630052007en.pdf>.

⁹¹⁰ *Ibid.*, 28.

Partner with the special mechanism in the promotion of human rights.

Organizations can invite the special mechanisms to take part in studies, conferences, seminars, and workshops. Special mechanisms often undertake joint projects with NGOs working in relevant areas.⁹¹¹

ii. The African Court on Human and Peoples' Rights



The African Court on Human and Peoples' Rights (African Court) is the main judicial body charged with human rights protection in Africa.⁹¹² Created by a protocol to the African Charter,⁹¹³ the court is located in Arusha, Tanzania, and is designed to “complement the protective mandate of the African Commission on Human and Peoples' Rights.”⁹¹⁴ The court delivered its first ruling in 2009 and has since decided 13 cases.⁹¹⁵

Unlike the African Commission, the African Court can issue binding and enforceable decisions in cases. The government is thereby obliged to remedy the human rights violation, in accordance with the judgment, including by paying compensation to the victim.⁹¹⁶

In some circumstances, individuals and civil society organizations may bring cases to the African Court. The following entities can take cases before the court:

- The African Commission on Human and Peoples' Rights⁹¹⁷
- Governments of countries that are complainants or respondents to a communication before the African Commission⁹¹⁸
- Governments that have an interest in a case⁹¹⁹
- African inter-governmental organizations⁹²⁰
- Non-governmental organizations with observer status at the African Commission and ordinary individuals, if the government against which the case is brought has made a declaration giving the court jurisdiction over cases brought by individuals and non-governmental organizations.⁹²¹

⁹¹¹ Ibid., 32–33.

⁹¹² IHRDA and ISHR, “A Human Rights Defender’s Guide to the African Commission on Human and Peoples’ Rights,” *supra* note 897, at 23.

⁹¹³ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, 2004, Art. 3(1). Also available online at <http://www.african-court.org/en/images/documents/Court/Court%20Establishment/africancourt-humanrights.pdf>; African Court on Human and Peoples’ Rights, Rules of Court, 2010, Rule 26(1)(a). Available online at <http://www.african-court.org/en/index.php/documents-legal-instruments>.

⁹¹⁴ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 2.

⁹¹⁵ African Court on Human and Peoples’ Rights, “Quick Facts,” accessed Jan. 9, 2014, <http://www.african-court.org/en/index.php/about-the-court/quick-facts-menu>.

⁹¹⁶ Amnesty International, *A Guide to the African Commission on Human and Peoples’ Rights*, *supra* note 909, at 42.

⁹¹⁷ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(a).

⁹¹⁸ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(b).

⁹¹⁹ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(c).

⁹²⁰ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(e).

⁹²¹ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(c).

If NGOs and individuals do not have direct access, they may use the African Commission's communication procedure to introduce their case. If the government does not comply with the commission's recommendations, the author of the communication may request that the commission refer the case to the African Court.

Proceedings in the African Court

When the African Court receives a case brought by an individual or an NGO, it first examines it to determine whether it is admissible and whether the court has jurisdiction. At this stage, if the case involves an emergency or extreme seriousness, the court may request that the government at issue undertake provisional protective measures.⁹²⁴ The court may also request that the parties submit additional "factual information or other material considered by the Court to be relevant" in order to decide jurisdiction and admissibility.⁹²⁵ The Rules of the Court do not establish any deadlines for the court to complete its admissibility determination.

As of October 2013, seven countries have made a declaration under Article 34(6) of the Protocol allowing individuals and non-governmental organizations with observer status at the African Commission to access the African Court directly: Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, Rwanda, and Tanzania.⁹²²

African Court Orders Libyan Government to Adopt Provisional Measures after African Commission Refers NGO Communication to the Court

In early February 2011, Libyan security forces in the city of Benghazi violently suppressed peaceful demonstrations against the detention of an opposition lawyer, and the violence quickly spread to other parts of the country. On February 28, the Egyptian Initiative for Personal Rights ("EIPR"), Human Rights Watch, and INTERIGHTS submitted a joint communication to the African Commission. A few days later, the commission referred the matter to the African Court. In its application to the court, the commission called for the Government of Libya to "set up an exhaustive inquiry and prosecute the authors of these violations," compensate victims and family members, and "include human rights in the training programmes of its security forces."

On March 25, 2011, in light of the extreme gravity and urgency of the matter, the African Court issued an order for provisional measures. The order called on the Government of Libya to:

- (1) Immediately refrain from any action that would result in loss of life or violation of physical integrity of persons, which could be a breach of the provisions of the Charter or of other international human rights instruments to which it is a party; and
- (2) Report to the Court within 15 days from the date of receipt of the Order on the measures taken to implement the Order.

Due to the chaos and eventual change in government in Libya, the court was not able to enforce its order.⁹²³

⁹²² Coalition for an Effective African Court on Human and Peoples' Rights, "Access to the African Court," accessed Oct. 2013, http://www.africancourtcoalition.org/index.php?option=com_content&view=category&layout=blog&id=44&Itemid=49&lang=en.

⁹²³ FIDH, "The African Commission should continue to support democratic movements on the continent," Apr. 28, 2011, <http://www.fidh.org/en/africa/african-union/African-Commission-on-Human-and-Peoples-Rights/49th-session-of-the-African/The-African-Commission-should>; Interights, "African Commission on Human and Peoples' Rights v Great Socialist Peoples' Libyan Arab Jamahiriya," Mar. 25, 2011, <http://www.interights.org/african-commission-v-libya/index.html>; Application No. 004/2011, African Commission on Human and Peoples' Rights v. Great Socialist People's Libyan Arab Jamahiriya, accessed Jan. 31, 2014, http://www.african-court.org/en/images/documents/Court/Cases/casae_summaries/Application_No_004_-_libya_summary_-_august_2011_updated.pdf; African Court on Human and Peoples' Rights, Order, In the Matter of the African Commission on Human and Peoples' Rights v. Great Socialist People's Libyan Arab Jamahiriya, Mar. 15, 2013, available at http://www.african-court.org/en/images/documents/Court/Cases/Judgment/DECISION_-_Application_004-2011_African_Commission_v_Libya_Struck_outEngl.pdf.

⁹²⁴ International Federation for Human Rights – FIDH, *Practical Guide - The African Court on Human and Peoples' Rights*, *supra* note 904, at 106.

⁹²⁵ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 39.

After the court determines that a case is admissible, the court considers the merits of the case. The court may appoint free legal representation to the complainant when the interests of justice demand.⁹²⁶ Hearings are open to the public, except in certain circumstances provided for in the court's Rules of Procedure.⁹²⁷ The court receives written and oral submissions from the parties, and the court also has the right to hold an inquiry and receive written and oral evidence (including expert testimony).⁹²⁸ The Court can also carry out field investigations.

The court has 90 days after the hearing to render its decision.⁹²⁹ If the court's decision recognizes a violation, it includes an order for appropriate remedies, including the payment of fair compensation to the victim.

How to file a case

The Registrar of the African Court accepts cases. Applications must comply with the Rules of the Court.

Applications should:

- Use one of the official languages of the African Union;⁹³⁰
- Provide a summary of the facts, the alleged violation, and the evidence to be cited to prove those facts;
- Provide proof of exhaustion of domestic remedies "or the inordinate delay of such local remedies";⁹³¹
- Clearly state the remedies the applicant seeks;
- Be signed by the applicant or a representative;⁹³²
- Include the name and address of the applicant's representative;⁹³³
- Include the name of the applicant, even if the applicant requests anonymity;⁹³⁴
- Include a request for reparations, if appropriate;⁹³⁵ and
- Be filed within a reasonable time after the date domestic remedies were exhausted, or by the deadline set by the court.⁹³⁶

Applicants should avoid using disparaging or insulting language. Evidence in support of the application should not be exclusively news disseminated through the mass media. The application should not "raise any matter or issues previously settled by the parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union."⁹³⁷

⁹²⁶ International Federation for Human Rights – FIDH, *Practical Guide - The African Court on Human and Peoples' Rights*, *supra* note 904, at 104.

⁹²⁷ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 43(2).

⁹²⁸ ACHPR, Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, *supra* note 913, Art. 26(1), (2).

⁹²⁹ *Ibid.* Art. 28(1).

⁹³⁰ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 34. (At the time of writing, the working languages include Arabic, English, French, and Portuguese).

⁹³¹ African Court on Human and Peoples' Rights, "Frequently Asked Questions," accessed Jan. 16, 2014, <http://www.african-court.org/en/index.php/frequently-asked-questions>.

⁹³² African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 34(1)–(4).

⁹³³ African Court on Human and Peoples' Rights, "Frequently Asked Questions," *supra* note 931.

⁹³⁴ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 40(1).

⁹³⁵ *Ibid.* Rule 34(5).

⁹³⁶ *Ibid.* Rule 40(6); African Court on Human and Peoples' Rights, "Frequently Asked Questions," *supra* note 931.

⁹³⁷ African Court on Human and Peoples' Rights, "Frequently Asked Questions," *supra* note 931.

Resources for using the African Court

The African Court's website provides application forms and other documents to help applicants file cases: http://www.african-court.org/en/images/documents/application/application_form.pdf.

African Court - Practice Guide for Litigants <http://www.african-court.org/en/images/documents/Court/Cases/Procedures/Practice%20Directions%20to%20Guide%20Potential%20Litigants%20En.pdf>

Practical Guide - The African Court on Human and Peoples' Rights (FIDH)

http://www.fidh.org/IMG/pdf/african_court_guide.pdf

AfCHPR - How to File a Case? <http://www.african-court.org/en/index.php/component/content/article/13-cases-from-court/22-submission-of-cases-to-the-court>

Practice Manual on the Procedure of the African Court on Human and Peoples' Rights (African Court Coalition) http://www.africancourtcoalition.org/index.php?option=com_content&view=article&id=136%3Anew-publication&catid=8%3Amiscellaneous&lang=en

Applications should be submitted to:

Registry of the Court

P.O. Box 6274

Arusha

Tanzania

Fax: +255-732-97 95 03

Email: registry@african-court.org

*Applications and other materials may be submitted by post, email, fax, or courier.

iii. African Committee of Experts on the Rights and Welfare of the Child

Article 32 of the African Charter on the Rights and Welfare of the Child (Children's Charter) established the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The Children's Charter ensures that the UN Convention on the Rights of the Child accounts for the socio-cultural and economic realities particular to Africa.⁹³⁸ For example, the Children's Charter addresses harmful practices against the girl child (including female genital mutilation), rights of children living under apartheid, and the rights of the child in internal conflict and displacement.⁹³⁹

Under Article 42, the committee is responsible for promoting and ensuring the protection of the rights of the child enshrined in the Children's Charter.⁹⁴⁰ The Children's Charter calls on the committee to:⁹⁴¹

- Receive and consider reports from State Parties on compliance with the provisions of the African Charter on the Rights and Welfare of the Child and issue general recommendations to State Parties.
- Receive and consider individual complaints of violations of Children's Charter rights by State Parties and determine whether a State Party has violated rights recognized in the Children's Charter.

⁹³⁸ Claiming Human Rights, "Children's Charter," accessed June 13, 2013, http://claiminghumanrights.org/childrens_charter.html?&L=bavfnwknyvfvj.

⁹³⁹ ACHPR, The African Charter on the Rights and Welfare of the Child, accessed Jan. 9, 2014, <http://www.achpr.org/instruments/child>.

⁹⁴⁰ African Human Rights Case Law Analyzer, "African Charter on the Rights and Welfare of the Child," Art. 42, accessed Jan. 9, 2014, <http://caselaw.ihrda.org/instrument/acrcw.42/>.

⁹⁴¹ African Union, "ACERWC," accessed Oct. 2, 2013, <http://pages.au.int/acerwc>.

- Undertake investigative and fact-finding missions to investigate systematic or gross violations of child rights in countries that are State Parties to the Children’s Charter.
- Interpret the provisions of the Children’s Charter and set rules, principles, and standards governing children’s rights and welfare in Africa through general comments, resolutions, and declarations.

The committee consists of eleven experts serving in an individual capacity.⁹⁴² For a list of current members of the ACERWC, visit: <http://www.africa-union.org/child/members.htm>.

Observer Status

See Chapter 11 for information on how to obtain observer status with the ACERWC.

The ACERWC holds two ordinary sessions each year. The chairperson can also convene extraordinary sessions at the request of the committee or of a State Party to the Children’s Charter. Sessions usually take place at the African Union Headquarters in Addis Ababa, Ethiopia.⁹⁴³

Civil society engagement with the ACERWC

Civil society plays a vital role in advancing the principles and provisions of the Children’s Charter and in working toward implementation at a national and community level. Article 42 the Children’s Charter recognizes that one of the functions of the Committee is to “cooperate with other African, international and regional institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.” Civil society can engage with the following committee mechanisms:

- State Reporting Process
- Sessions
- Individual Communications Procedure
- Investigative Missions.

State reporting process

State Parties must submit an initial report on the measures they have adopted to implement the Children’s Charter no later than two years after ratification, and then they must submit periodic reports every three years thereafter.⁹⁴⁴ The committee began examining these reports in May 2008.⁹⁴⁵

State Reporting Process for the ACERWC

1. Government submits its report to the committee
2. Committee appoints a rapporteur
3. Civil society organizations submit reports to the committee
4. Committee holds a meeting of its pre-session working group to identify issues for discussion
5. Committee holds a public plenary session to discuss the report with a delegation from the government of the country under review
6. Committee publishes concluding observations and recommendations
7. Government implements recommendations

⁹⁴² Child Rights Information Network, “African Committee on the Rights and Welfare of the Child,” accessed Oct. 2013, <http://www.crin.org/resources/infodetail.asp?ID=18065>.

⁹⁴³ Ibid.

⁹⁴⁴ ACERWC, “State Reports & Committee Recommendations,” accessed Oct. 2013, <http://acerwc.org/state-reports/>.

⁹⁴⁵ CRIN, African Committee on the Rights and Welfare of the Child, *supra* note 942.

The committee then publishes the state report on its website (<http://acerwc.org/state-reports/>) and assigns a rapporteur to lead the examination of the report. Civil society organizations submit shadow reports in response to the state report.⁹⁴⁶ The rapporteur then creates a draft list of issues, which the committee finalizes during its pre-session working group meeting.

The ACERWC formally examines the state report through a dialogue with a delegation from the government of the country under review. This examination takes place in a public plenary session. NGOs with observer status may attend the session, but they are not allowed to make statements during the review. After the plenary session, the committee meets privately to draft concluding observations and recommendations. The committee transmits its concluding observations and recommendations to the government of the country under review, and it also publishes them on its website and submits them as part of its report to the AU Assembly of Heads of State and Government.⁹⁴⁷

How to submit a shadow report to the ACERWC

The committee does not prescribe a specific format for NGO shadow reports. But the committee identifies main themes for governments to address in their state reports, and NGOs often structure their shadow reports around these same themes:⁹⁴⁸

- General measures of implementation of the Children’s Charter
- Definition of the child
- General principles
- Civil rights and freedoms
- Family environment and alternative care
- Health and welfare
- Education, leisure and cultural activities
- Special protection measures
- Responsibilities of the child.

Shadow reports can include suggested questions for committee members to pose to the government delegation. Shadow reports do not need to address all nine of the thematic clusters. NGOs should focus on the most relevant themes and, where possible, provide concrete examples of violations of children’s rights.⁹⁴⁹

⁹⁴⁶ According to Rule 69 of the Rules of Procedure of the ACERWC, “the Committee may invite the NGOs and CSOs, in conformity with Article 42 of the Children’s Charter, to submit to it reports on the implementation of the Children’s Charter and to provide it with expert advice in areas falling within their scope of activity.”

⁹⁴⁷ African Commission on Human and Peoples’ Rights, “African Commission on Human and Peoples’ Rights: State Reporting Procedure,” *supra* note 876.

⁹⁴⁸ ACERWC, “ACERWC Guidelines on Initial State reports,” accessed Oct. 2013, <http://acerwc.org/wp-content/uploads/2011/03/ACERWC-Guidelines-on-Initial-State-reports-English.pdf>.

⁹⁴⁹ Save the Children Sweden and Plan International, *Advancing Children’s Rights A Guide for Civil Society Organisations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010), 42. Available online at <http://www.crin.org/docs/AdvancingCSOguide.pdf>.

NGOs should submit reports soon after the committee publishes the State report, and before the meeting of the relevant pre-session working group. For further guidance on submitting a shadow report, consult: *2.3 The Civil Society Report*, in *Advancing Children's Rights A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010): <http://resourcecentre.savethechildren.se/sites/default/files/documents/5449.pdf>.

Send shadow reports to:

Secretariat of African Committee of Experts on the Rights and Welfare of the Child

African Union Commission
Department of Social Affairs
P.O. Box 3243
Roosevelt Street (Old Airport Area)
W21K19, Addis Ababa, Ethiopia

ACERWC sessions

Organizations wishing to attend any committee meeting should first contact the Secretariat to obtain accreditation (written permission to attend).⁹⁵⁰ Only organizations with observer status are allowed to attend the ACERWC's Pre-Session Working Group. There are many opportunities for civil society organizations to engage with the committee during its sessions.

Speaking at the Pre-Session Working Group

CSOs are not allowed to speak at the plenary session, but organizations *are* allowed to speak during the ACERWC Pre-Session Working Group. Because the Pre-Session Working Group meets in private, NGO participation is by invitation only. When submitting a shadow report, organizations interested in attending the Pre-Session Working Group should include a cover letter requesting an invitation. For further guidance on participating in the Pre-Session Working Group, including a suggested framework for presentations, consult *Advancing Children's Rights: A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010).

Lobbying

Civil society organizations can informally lobby committee members during the sessions. Advocates can speak with the appointed rapporteur or meet informally with committee members and governmental delegations before session meetings or during breaks. During these meetings, advocates can share updates to their shadow reports or present other relevant information.

Participating in the Civil Society Forum on the Rights and Welfare of the Child

The Civil Society Forum on the Rights and Welfare of the Child takes place before each ordinary session of the ACERWC. During the forum, NGOs working on the rights and welfare of children in Africa, along with children's rights experts and African Union representatives, come together to discuss issues relating to children's rights and to develop resolutions and recommendations for the committee. The Civil Society Forum supports the committee's work and provides a platform for information-sharing, networking, and advocacy. At each ACERWC session, the Civil Society Forum has a standing slot to share its recommendations and concerns with the committee. The Civil Society Forum is open to all children's rights organizations and activists, and membership is free. To learn more about the forum, visit: <http://www.csforum.info/faq/>.

⁹⁵⁰ Ibid., 30.

Individual communications procedure

Article 44 of the Children’s Charter empowers the committee to consider individual communications alleging a violation of any of the rights enshrined in the Charter. The ACERWC is the first treaty body dealing with the rights of the child to establish a complaints procedure.⁹⁵¹ State Parties to the Children’s Charter can make reservations concerning the extent of the committee’s powers, so advocates should consult those reservations before submitting an individual communication.

An individual—including the child whose rights have been violated or the child’s parents or legal representatives, witnesses, groups of people, and NGOs—may submit a communication. The ACERWC individual communication procedure is similar to the communication procedure of the African Commission and consists of three main steps: (1) consideration of admissibility; (2) consideration of the merits; and (3) implementation and monitoring of the committee’s decision.

The committee may set up a working group to meet before a session to determine whether the committee will accept a communication. If the committee decides that a communication is admissible, the working group appoints a rapporteur. The committee then brings the communication to the attention of the government concerned and requests response within six months. The committee may also request that the author of the communication and a representative of the government appear before the committee to present more information and to respond to committee questions. While the committee is considering a communication, it can ask the government concerned to take certain provisional measures to prevent any harm to the child mentioned in the communication and other children who could be victims of similar violations.

How to submit an individual communication to the ACERWC

The committee’s criteria for admissibility are similar to those of the African Commission (see Seven Requirements for Submitting a Complaint to the African Commission, above). Individual communications to the ACERWC must be based on the rights identified in the Children’s Charter. For further guidance, including how to ensure that children’s involvement in the communication procedure is in their best interests, consult: *Advancing Children’s Rights: A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010). The ACERWC website includes decisions on past communications: <http://acerwc.org/communications/>.

Investigative missions

Under Article 45 of the Children’s Charter, the committee may undertake investigative missions to gather information on the situation of the rights of the child in a country that is a party to the charter.⁹⁵² These visits allow the committee to document violations and to make recommendations to the government concerned.⁹⁵³

The committee may conduct an investigation based on a matter referred to the ACERWC, a matter initiated by the ACERWC arising out of an individual communication, or in response to an invitation from the government of the country where the investigation takes place. The committee needs to obtain the permission of the government in order to visit the country. If a government refuses to allow an investigatory mission, however, the committee can report this lack of cooperation to the AU Assembly, which may choose to take further action.⁹⁵⁴

⁹⁵¹ ACERWC, “Communications,” accessed Nov. 2013, <http://acerwc.org/communications/>.

⁹⁵² CRIN, African Committee on the Rights and Welfare of the Child, *supra* note 945.

⁹⁵³ Save the Children Sweden and Plan International, *Advancing Children’s Rights A Guide for Civil Society Organisations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child*, *supra* note 949, at 58.

⁹⁵⁴ *Ibid.*, 59.

The investigations are to be carried out by sub-committees or working groups. The committee designates a special rapporteur among its members or appoints independent experts to accompany the mission sub-committee. The committee prepares a preliminary mission report on the situation of child rights in the country, and then it issues a final report with recommendations to the government concerned. The committee also sends the recommendations to other public and private institutions responsible for monitoring and implementing child rights.⁹⁵⁵

The committee invites the government to submit a written reply with information on measures taken to implement the committee's recommendations. The committee may also request that other institutions and civil society organizations provide additional information on measures the government has taken with respect to the recommendations. The committee may also ask the government to include information about implementation in its next periodic report to the committee.⁹⁵⁶

How to engage with ACERWC's investigative missions

After the committee announces that it will conduct an investigative mission, civil society organizations, especially organizations based in the country where the visit will take place, can play an important role in providing information to the committee as it prepares for its mission. NGOs can suggest places to visit, groups and individuals to meet, and issues to investigate. They might also provide the committee with information about local civil society organizations working on child rights issues, details of specific cases of alleged violations of children's rights, or an overview of patterns of violations.

Additional opportunities for civil society to engage with the ACERWC **Influence appointment of qualified candidates to serve on the committee**

Civil society organizations cannot nominate candidates, but they can influence the selection process by:

- Identifying qualified candidates and encouraging them to serve;
- Contacting government officials working on children's issues and seeking their support for targeted candidates;
- Writing to the Ministry of Foreign Affairs to identify why the targeted candidates are well-qualified;
- Lobbying the government to ensure that the nomination process is transparent and that candidates are selected on merit;
- Lobbying the government to nominate qualified candidates.⁹⁵⁷

For more information on the nomination process, visit: http://www.crin.org/docs/ACERWC_elections_2010.pdf.

Advocate

NGOs and individuals can use the committee's concluding observations and recommendations to advocate for governments to realize children's rights. They can involve the media in efforts to report on the government's progress in implementing the committee's recommendations and complying with the Children's Charter, encouraging scrutiny and ensuring that child rights are on the government's agenda. If a country has not yet ratified the Children's Charter or has ratified it with reservations, NGOs can lobby the government to ratify it as soon as possible or to withdraw the reservations.

⁹⁵⁵ CRIN, African Committee on the Rights and Welfare of the Child, *supra* note 945.

⁹⁵⁶ *Ibid.*

⁹⁵⁷ Child Rights Information Network, "African Committee: Elections 2010 - Information for NGOs," accessed Jan. 17, 2014, <http://crin.org/en/library/news/african-committee-elections-2010-%E2%80%93-information-ngos>.

Resources for Engaging with the ACERWC

Advancing Children's Rights A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child (2010).

<http://www.acerwc.org/wp-content/uploads/2011/03/52073950-Advancing-Children-s-Rights-2nd-Edition.pdf>

The African Charter on the Rights and Welfare of the Child (ACRWC)

<http://pages.au.int/acerwc/documents/african-charter-rights-and-welfare-child-acrwc>

African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

<http://www.africa-union.org/child/>

<http://pages.au.int/acerwc>

The Civil Society Forum on the Rights and Welfare of the Child

<http://www.csoforum.info>

iv. African Peer Review Mechanism



The African Peer Review (APR) Mechanism is part of the New Partnership for Africa's Development, which since 2001 is an important socio-economic development program of the African Union. The APR Mechanism is a voluntary self-monitoring mechanism in which AU member states evaluate each other's quality of governance. The peer review process promotes mutual accountability and compliance with best practices. The overall purpose of the APR Mechanism is to improve governance—including observance of the rule of law and respect for

human rights—in African countries.⁹⁵⁸

The APR Mechanism reviews four areas: democracy and political governance; economic governance and management; corporate governance; and socio-economic development.⁹⁵⁹ As of 2013, the APR Mechanism has been in place for over a decade, and seventeen countries have participated in the review process.⁹⁶⁰ The APR Mechanism Secretariat is the liaison for the APR Mechanism and is in charge of fostering participation from the diaspora.⁹⁶¹

The APR Mechanism is a five-stage process:⁹⁶²

- **Country Self-Assessment.** The country under review first assesses itself by means of a standard questionnaire divided into four sections corresponding with the four areas of review: democracy and political governance; economic governance and management; corporate governance; and socio-economic development. The questions assess compliance with a wide range of African and international human rights treaties and standards. In parallel with this self-assessment, the APR Mechanism Secretariat produces a background study of the country's governance and development. The secretariat shares this report with the government of the country under review. The country's government is then invited to draft a preliminary Program of Action designed to improve the country's governance practices.

⁹⁵⁸ Claiming Human Rights, "African Peer Review Mechanism," accessed Nov. 2013, http://www.claiminghumanrights.org/peer_review.html.

⁹⁵⁹ African Peer Review Mechanism (APRM), "Objective, Standards, Criteria and Indicators," at 4, http://aprm-au.org/sites/default/files/aprm_osci_0.pdf.

⁹⁶⁰ Open Society Foundations et al., *The APRM +10: Reviewing a decade of Peer Learning and Projecting a Future of Governance in Africa* (May 17–18 2013), 1 (unpublished conference report). Also available online at <http://www.saiia.org.za/aprm-colloquium>.

⁹⁶¹ African Peer Review Mechanism (APRM), "APR Secretariat," accessed Jan. 9, 2014, <http://aprm-au.org/apr-secretariat>.

⁹⁶² Claiming Human Rights, "African Peer Review Mechanism," *supra* note 958.

- **Country Review Mission.** In the second stage, a review team visits the country and studies it in depth. The review team reaches out to all relevant stakeholders, including the government, government officials, political parties, parliamentarians, and representatives of civil society organizations. At this stage, the process explicitly encourages input from civil society representatives, including the media, academia, trade unions, and business and professional bodies.⁹⁶³
- **Compilation of Country Report.** The review team and the APR Mechanism Secretariat then draft a report based on the results of the first stage and findings from the visit. This report is discussed with the government of the country under review. The government then prepares a final Program of Action. The Program of Action commits a country's government (in partnership with other stakeholders) to specifically defined targets and interventions over a five-year period.⁹⁶⁴
- **APR Forum Review.** The secretariat submits the review report to the APR Forum, which consists of heads of state and government of countries participating in the APR Mechanism. At the APR Forum, countries consider reports and formulate any necessary action steps. At this stage, participating governments can exert peer pressure if a country's final Program of Action has particular shortcomings in light of the review report.
- **Report published.** After six months, the secretariat releases the report to the public, with the view to enable national stakeholders who participated in the process to monitor implementation of the Program of Action and any additional strategies to address concerns raised in the report.⁹⁶⁵



A meeting of the African Peer Review Forum in Addis Ababa, Ethiopia in January 2011

Every three to five years, the review is repeated to monitor progress toward the objectives outlined in the Program of Action and to develop a new report and strategy for the next five-year period.⁹⁶⁶

Civil society engagement with the APR Mechanism

The APR Mechanism is an innovative instrument that human rights organizations can use to make their voice heard. Civil society participation in the APR Mechanism process is essential to ensure the validity and legitimacy of the process, and the APR Mechanism incorporates civil society into the process of generating and monitoring governance standards and policies. When a country agrees to participate in the APR Mechanism, it must sign a

⁹⁶³ Marie Chêne, *U4 Expert Answer: The African Peer Review Mechanism* (Transparency International, June 2009), <http://www.u4.no/publications/the-african-peer-review-mechanism-aprm/>.

⁹⁶⁴ EISA, "Implementation of Programme of Action," in *APRM Toolkit*, accessed Nov. 2013, <http://eisa.org.za/aprm/toolkit/cso-implementation.htm>.

⁹⁶⁵ Chêne, *U4 Expert Answer: The African Peer Review Mechanism*, *supra* note 963, at 4–5.

⁹⁶⁶ *Ibid.*, 5.

memorandum of understanding agreeing to “ensure the participation of all stakeholders.”⁹⁶⁷ Civil society can engage with the APR Mechanism at several stages of the process:

1. Country support missions
2. Country self-assessment
3. National governing body and technical research agencies
4. Country review mission
5. Implementation and monitoring of Program of Action

Country support missions

The APR Mechanism Secretariat convenes Country Support Missions (also referred to as Technical Assessment Missions) as needed. These Country Support Missions are designed to provide support to countries preparing to undertake the APR Mechanism process. During these visits, a team from the secretariat visits the country to assess the preparations and procedures for the self-assessment review. The main focus of the visit is to support the national process. During these missions, the APR Mechanism Secretariat and other staff who are part of the mission sometimes meet with civil society organizations to hear their concerns, issues, and suggestions for the upcoming self-assessment. At this point, activists can share their thoughts on: the proposed national processes; the composition of the national APR structures, councils, or other bodies; civil society access to and engagement with the national APR Focal Point; and other logistical, structural, and organizational issues.⁹⁶⁸

Country self-assessment

The country self-assessment is the most critical area in which civil society can engage with the APR Mechanism process. Different countries will use different methods for involving civil society in the self-assessment, but core APRM documents⁹⁶⁹ require that the self-assessment process include broad and diverse civil society consultations. Civil society organizations must therefore be alert to developments in the self-assessment process, in particular:

- The date the government intends to launch the self-assessment process;
- When the government will form the country’s national governing body, and who will serve on it;
- At what stage in the process civil society can make submissions to the governing body, and what form those submissions should take;
- The length of time the government has allocated for the entire self-assessment process;
- At what stage stakeholders will review a draft self-assessment report (usually this review takes the form of a national stakeholder conference);
- When the government plans to produce its final self-assessment report;
- When the APR Mechanism Secretariat’s Country Review Team will conduct its official review mission; and
- At what stage the government will need to submit its final draft Program of Action and Country Report to the APR Panel for consideration.⁹⁷⁰

⁹⁶⁷ African Peer Review Mechanism (APRM), Memorandum of Understanding of the APRM, 2003, § 22. Available online at (http://aprm-au.org/sites/default/files/aprm_mou_0.pdf).

⁹⁶⁸ EISA, “Country Support Missions,” in *APRM Toolkit*, *supra* note 964.

⁹⁶⁹ Such documents include: African Peer Review Mechanism, “APRM Base Document,” accessed Jan. 17, 2014, <http://aprm-au.org/document/aprm-base-document-0>; Electoral Institute for Sustainable Democracy in Africa (EISA), “Africa Peer Review Mechanism: Organization and Process,” accessed Jan. 15, 2014, http://eisa.org.za/aprm/pdf/APRM_Organization_Process.pdf; EISA, “Memorandum Of Understanding Relating to Technical Assessment Missions,” accessed Jan. 15, 2014, http://eisa.org.za/aprm/pdf/APRM_MOU_Technical_%20Assessment.pdf; EISA, “Country Self-Assessment for the African Peer Review Mechanism,” accessed Jan. 15, 2014, http://eisa.org.za/aprm/pdf/APRM_Self_Assessment_Questionnaire.pdf.

⁹⁷⁰ EISA, “Country Self-Assessment Process,” in *APRM Toolkit*, *supra* note 964.

If any members of civil society think the government has not provided a fair opportunity for all national stakeholders to contribute to the self-assessment, they can either submit complaints directly to the APR Mechanism Secretariat or raise the matter during the visit of the secretariat's Country Review Team. Based on the track record of both organizations thus far, the APR Mechanism structures take this type of engagement seriously and are committed to encouraging all governments to ensure that all possible measures are taken to engage with a broad and diverse number of national stakeholders during the self-assessment process.⁹⁷¹

Civil society representation in the national governing body and technical research agencies

Another opportunity for civil society to maximize engagement in the APR process is to interact with the national decision-making bodies or technical agencies responsible for conducting governance research for the country. Each country has the right to shape and design its own processes and structures for self-assessment, and these processes may enlist technical agencies to conduct detailed research for the final report. Civil society may be able to advocate for non-governmental actors to have seats on the country's national governing body. The APR Panel strongly encourages governments to ensure that civil society has adequate representation on the national governing body.⁹⁷²

Further, if a country decides to make use of technical research agencies to conduct and collate surveys and other materials, civil society organizations are most often the preferred candidates to conduct this type of work. NGOs may strategize to be nominated as technical research agencies to conduct research on the four areas of governance under review.⁹⁷³

Country review mission

Review missions take place after a country has submitted its self-assessment report and draft Program of Action to the APR Mechanism Secretariat. The secretariat gives governments 60 days' notice prior to the commencement of the country review mission.⁹⁷⁴ Missions ordinarily take 10–21 days. During the review mission, an APR team meets with various stakeholders from government, the national governing body, business, and civil society. The team evaluates the country's self-assessment process. This evaluation process includes gathering feedback from civil society to identify critical issues, to assess areas that have been omitted or that have received insufficient attention, and to hear legitimate grievances and complaints about any aspect of the self-assessment process. This engagement provides civil society with an opportunity to ensure that mission staff do not overlook key concerns during the report-writing process.

Implementation and Monitoring of Program of Action

Civil society has the opportunity to participate in implementing the final Program of Action after it is published. In so doing, NGOs can engage with the government in improving the country's governance practices and in holding the government accountable to the targets the government itself established in its Program of Action.

In some cases, a Program of Action tasks civil society organizations with the responsibilities of an implementing agency. Programs of Action sometimes name civil society groups as stakeholder partners and monitoring agencies. The tasks outlined in the Program of Action typically require collaboration between multiple stakeholders, warranting extensive and sustained engagement between the official implementing agencies and civil society at large.

⁹⁷¹ Ibid.

⁹⁷² EISA, "National Governing Body/Technical Agencies," *APRM Toolkit*, *supra* note 964.

⁹⁷³ Ibid.

⁹⁷⁴ APR Forum, "MOU on Technical Assessment and the Country Review Visit," *supra* note 967.

Resources for Civil Society Engagement with the APR Mechanism

APRM Toolkit, South African Institute of International Affairs (<http://www.aprmtoolkit.co.za/>)

Governance and APRM: Publications, South African Institute of International Affairs (<http://www.saiia.org.za/news/governance-and-aprm-publications>)

African Peer Review Monitoring Project, South African Institute of International Affairs (<http://www.saiia.org.za/governance-and-aprm-projects/african-peer-review-monitoring-project-amp>)

APRM Toolkit, Electoral Institute for Sustainable Democracy in Africa and South African Integration Network (<http://eisa.org.za/aprm/home.htm>)

Evolving Approaches to Civil Society Engagement with the APR Mechanism

Ghana was the first country to participate in the APR Mechanism; its country visit took place in May 2004.⁹⁷⁵ Civil society participated in the process at three different levels: the National APR Mechanism Governing Council (NAPRM-GC); the Technical Review Teams (TRTs); and a country survey.⁹⁷⁶ The government selected members of civil society to serve on the seven-person NAPRM-GC, which oversaw the process,⁹⁷⁷ and the government included civil society in the TRTs.

The government's engagement of civil society faced criticism. First, the government did not solicit public input during the selection process.⁹⁷⁸ Second, the membership of the NAPRM-GC and TRTs was not sufficiently diverse.⁹⁷⁹ Third, the general public was not engaged in the process, which focused on elite and well-connected organizations. Sensitization workshops provided insufficient information about the APR Mechanism.⁹⁸⁰

Since Ghana's review, sixteen additional countries have participated in the APR Mechanism.⁹⁸¹ In May 2013, the APR Mechanism held a two-day conference to review the process. Participation in the APR process has improved, but countries are not in agreement about "who constitutes civil society and who they represent."⁹⁸² Conference participants identified a variety of ways to improve civil society participation. They called for new strategies to press governments to "conduct an open and honest review" and to engage civil society in all stages of the process. They also identified a need for better dissemination of information about the APR Mechanism.⁹⁸³ Participants determined that cross-national dialogue would strengthen the process.⁹⁸⁴ Participants also called for the APR Mechanism to consider how to engage more fully with the diaspora; the African Union recognizes the African diaspora as a distinct region that provides a variety of contributions to the African continent.⁹⁸⁵

⁹⁷⁵ Grant Masterson, *An Analysis of the Implementation of the African Peer Review Mechanism in Ghana, Kenya and Mauritius* (Electoral Institute for Sustainable Democracy in Africa, 2005), 8. Available online at (<http://eisa.org.za/PDF/OP29.pdf>).

⁹⁷⁶ Eric Albert Opoku, *Effective Stakeholder Participation in the APRM Process for the Promotion of Democratic Governance: A Case Study of Ghana* (December 2006), 18–20. Available online at (http://www.afriamap.org/english/images/documents/GhanaAPRM_opoku.pdf).

⁹⁷⁷ *Ibid.*, 18–21.

⁹⁷⁸ *Ibid.*, 20–22.

⁹⁷⁹ *Ibid.*

⁹⁸⁰ *Ibid.*, 25–26, 28–29.

⁹⁸¹ Open Society Foundations et al., *The APRM +10: Reviewing a decade of Peer Learning and Projecting a Future of Governance in Africa*, *supra* note 960, at 1.

⁹⁸² *Ibid.*, 6.

⁹⁸³ *Ibid.*, 8.

⁹⁸⁴ *Ibid.*, 18.

⁹⁸⁵ *Ibid.*, 15–16.

Case Study: Minority Rights Group International in Uganda

Uganda joined the APR Mechanism in 2003 and began its first self-assessment in February 2007. The Ugandan APR Commission partnered with civil society umbrella organizations on the assessment. Minority Rights Group International (MRG) observed that minority rights in Uganda were not receiving adequate attention in the process and reached out to the NGO Forum, one of the organizations working with the APR commission. Based on the response, MRG thought that the process would not adequately address minority rights in Uganda. MRG then partnered with Care International and five other organizations to prepare a position paper on minorities in Uganda. MRG sent the position paper to the Ugandan APR Commission and the APR Mechanism Secretariat. MRG also attended a meeting held by NGO Forum to validate the civil society submission for Uganda’s self-assessment. At this meeting, the participants determined that the draft insufficiently addressed minority rights, and the final civil society submission included a modified version of MRG’s position paper.

The Ugandan APR Commission’s country self-assessment discussed minority rights, but it did not include any proposed actions to address MRG’s concerns. When the APR Country Review Mission came to Uganda, MRG and its partners attended meetings, advocated for components of the Program of Action that would improve minority rights, and submitted a report documenting their concerns and highlighting omissions in the country self-assessment.⁹⁸⁶

v. African Sub-Regional Human Rights Mechanisms

a. Economic Community of West African States (ECOWAS) Community Court of Justice



The ECOWAS Community Court of Justice (ECCJ) is an increasingly active international adjudicator of human rights violations in West Africa. The court, based in Abuja, Nigeria, gives effect to the provisions of the African Charter on Human and Peoples’ Rights. The court’s decisions are legally binding on all 15 ECOWAS countries.

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Economic Community of West African States		
Benin	Ghana	Niger
Burkina Faso	Guinea	Nigeria
Cape Verde	Guinea Bissau	Senegal
Côte d’Ivoire	Liberia	Sierra Leone
The Gambia	Mali	Togo

The ECCJ is composed of seven judges appointed by the Authority of Heads of State and Government of ECOWAS Members. The court has jurisdiction to rule on violations of fundamental human rights. In January

⁹⁸⁶ Juliet Nakato Odoi, “Civil Society Participation in Uganda’s APRM Process,” SAIIA Occasional Papers Series 2 (June 2008).

2005, ECOWAS adopted an Additional Protocol to permit individuals to bring suits against Member States.⁹⁸⁷ Unlike other regional human rights mechanisms, “local remedies do not need to have been exhausted, before cases are brought to the ECOWAS Court of Justice.”⁹⁸⁸

The ECCJ’s major human rights decisions include *Hadijatou Mani Koroua v. Niger*, a landmark 2008 ruling holding the State of Niger responsible for failing to protect one of its citizens by passively tolerating the practice of slavery, and *SERAP v. Federal Republic of Nigeria and Universal Basic Education Commission*, a 2011 ruling ordering the Government of Nigeria to provide adequate financial support for public education in order to fulfill its obligation under the African Charter to provide free and compulsory basic education to every Nigerian child.⁹⁸⁹ A complete list of the court’s orders and decisions is available here:

http://www.courtecowas.org/site2012/index.php?option=com_content&view=article&id=157&Itemid=27.

The ECCJ can consider cases brought by:

- Individuals seeking relief for violation of their human rights;
- Individuals and corporate bodies seeking a determination that an ECOWAS official has violated their rights;
- ECOWAS Member States and the Executive Secretary bringing an action against a Member State for failure to fulfill a treaty obligation;
- ECOWAS Member States, the Council of Ministers, and the Executive Secretary seeking a determination of the legality of any action related to an ECOWAS agreement;
- ECOWAS staff who have exhausted remedies under ECOWAS Rules and Regulations; and
- ECOWAS Member States’ national courts referring an issue related to the interpretation of ECOWAS agreements.

Anyone under the jurisdiction of an ECOWAS Member State may bring a case before the court, but Article 12 of the Protocol establishing the ECCJ requires individuals to be represented by an agent or a lawyer.

ECOWAS Court of Justice Procedure

After a party submits an application to the ECCJ, the application is served on the defendant, who then has one month to reply. Both parties then have a second opportunity to reply. A Judge-Rapporteur produces a preliminary report, including recommendation as to whether the court should conduct a preparatory inquiry or other preparatory steps.⁹⁹⁰ Based on this preliminary report, the ECCJ decides on the measures of inquiry, which may include:

- The personal appearance of the parties;
- A request for information and for further documents;
- Oral testimony;
- The commissioning of an expert report; and
- An inspection of the place or of evidence.

The court then sets the date for any oral procedure, which may include hearing oral evidence from witnesses.

⁹⁸⁷ International Justice Resource Center, “Economic Community of West African States Court of Justice,” accessed Nov. 2013, <http://www.ijrcenter.org/ihr-reading-room/regional-communities/economic-community-of-west-african-states-court-of-justice/>.

⁹⁸⁸ Claiming Human Rights, “The ECOWAS Court of Justice,” accessed June 13, 2013, <http://claiminghumanrights.org/ecowas.html?&L=ismsewucnmjoiz>.

⁹⁸⁹ Open Society Foundation, “Fact Sheet: ECOWAS Community Court of Justice,” accessed Nov. 2013, <http://www.opensocietyfoundations.org/sites/default/files/fact-sheet-ecowas-court-justice-20130627.pdf>.

⁹⁹⁰ African Commission on Human and Peoples’ Rights, “ECOWAS Community Court of Justice,” in *A Conscientious Objector’s Guide to the International Human Rights System*, *supra* note 876. Also available online at <http://co-guide.org/mechanism/ecowas-community-court-justice>.

After the court hears evidence and presentations from the parties, the court deliberates on its judgment in a closed session. The court delivers its judgment in an open session, and the judgment is binding from the date of its delivery. The process typically takes more than two years.

How to File a Case with the ECOWAS Court of Justice

An application must be addressed to the Court Registry. Applications should be submitted in one of the court's official languages (English, French, and Portuguese) and in one of the official languages of the State against which the case is brought.⁹⁹¹ The application must be in writing and signed by the agent or lawyer of the applicant, with five certified copies for the court plus one copy for each party to the case.

Every application must include:⁹⁹²

- The name and address of the applicant;
- The party or government against which the application is made;
- The subject matter of the proceeding, including a clear description of the alleged human rights violations;
- A summary of the law on which the application is based, with clear reference to the provisions of the African Charter that are alleged to have been violated;
- The form of order or other relief the applicant seeks;
- Where appropriate, the nature of any evidence offered in support of the application; and
- An address for service in the place where the court has its seat and the name of the person who is authorized to accept service or, in the alternative, a statement that the lawyer or agent agrees to be served by telefax or other technical means of communication.

The court does not have specific deadlines for submitting applications relating to human rights violations, but applicants should file their cases as soon as possible. For more information on filing a case with the ECOWAS Community Court, consult: http://www.courtecowas.org/site2012/pdf_files/registrar_english_correct.pdf

Resources for Litigating in the ECOWAS Community Court of Justice

ECOWAS Community Court of Justice

<http://www.courtecowas.org/>

ECOWAS Community Court of Justice - Practice and Application Instructions

http://www.courtecowas.org/site2012/pdf_files/registrar_english_correct.pdf

Send applications to:

Community Court of Justice, ECOWAS
No. 10, Dar es Salaam Crescent
off Aminu Kano Crescent
Wuse II, Abuja, Nigeria
Fax: +234 09 5240780 (for urgent matters)

⁹⁹¹ Economic Community of West African States (ECOWAS), Rules of the Community Court of Justice of ECOWAS, 2002, Arts. 32–40. Also available online at http://www.courtecowas.org/site2012/pdf_files/rules_of_procedure.pdf.

⁹⁹² Claiming Human Rights, "The ECOWAS Court of Justice," *supra* note 988.

b. East African Court of Justice



The East African Court of Justice (EACJ) is the judicial body of the East African Community, which includes Burundi, Kenya, Rwanda, Tanzania, and Uganda. The EACJ was created under Article 9 of the Treaty for the Establishment of the East African Community, and the court is mandated with interpreting and enforcing that treaty. The court has “has original, appellate and human rights jurisdiction. Thus, an applicant need not exhaust local remedies before approaching the Court.”⁹⁹³

The court is made up of two divisions: a First Instance Division and an Appellate Division. The court’s judges are appointed by the East African Community Summit, the highest organ of the community, from among persons recommended by East African Community States.⁹⁹⁴ The court is temporarily located in Arusha, Tanzania.

The EACJ received its first case in December 2005 and issued a ruling in October 2006. Cases are usually decided in less than a year. Many of these judgments concern the internal workings of the East African Community. In *Katabazi v. Secretary General of the EAC and Uganda*, however, the court upheld a complaint regarding violation of the rule of law, holding that the mere fact that a complaint also raises human rights issues does not exclude it from the jurisdiction of the Court.⁹⁹⁵ For a complete summary of orders and decisions of the Court, visit the “case law” links on the left tool bar of the EACJ website: <http://www.eacj.org/index.php>.

The EACJ can consider cases brought by:⁹⁹⁶

- Residents of East Africa challenging the legality of any Partner State/Community Act, regulation, directive, decision, or action;
- Partner States bringing an action against a State for failure to fulfill treaty obligations;
- Partner States seeking a determination of the legality of any action related to the Treaty;
- The Secretary General alleging that a Partner State failed to fulfill an obligation or breached the Treaty; and
- A national court referring an issue for a preliminary ruling on a question of Treaty interpretation or on the legality of Community law or action.

EACJ procedure

Cases begin when the applicant (or claimant) files a complaint with the court. The Registrar provides the respondent with a copy of the applicant’s complaint and requests that the respondent file a statement of defense. The Registrar then sends the statement of defense to the applicant, and both parties have an opportunity to submit a reply.⁹⁹⁷ Within 14 days after the close of the pleadings, the First Instance Division decides whether there is a legitimate reason to bring the complaint before the court and whether the case would be suitable for mediation, conciliation, or another form of settlement.⁹⁹⁸

⁹⁹³ Coalition for an Effective African Court on Human and Peoples’ Rights, “East African Court of Justice,” accessed Jan. 9, 2014, http://www.africancourtcoalition.org/index.php?option=com_content&view=category&layout=blog&id=55&Itemid=69.

⁹⁹⁴ East African Community, “East African Court of Justice – Composition,” accessed Jan. 9, 2014, http://www.eac.int/index.php?option=com_content&id=24&Itemid=156&limitstart=3.

⁹⁹⁵ International Justice Resource Center, “East African Court of Justice,” accessed Jan. 9, 2014, <http://www.ijrcenter.org/ihr-reading-room/regional-communities/east-african-court-of-justice/>.

⁹⁹⁶ East African Community, “Access to the Court,” accessed Jan. 8, 2014, http://www.eacj.org/access_to_the_court.php.

⁹⁹⁷ East African Court, *Court User’s Guide*, Sept. 2013, 8. Available online at http://eacj.huriweb.org/wp-content/uploads/2013/11/EACJ_Court_Users_Guide_September_2013.pdf.

⁹⁹⁸ *Ibid.*, 9.

If the case is not suitable for settlement, or if settlement efforts fail, the First Instance Division sets a hearing date. All court proceedings, including the pronouncement of decisions, are held in open court.⁹⁹⁹ Proceedings in open court are recorded and later transcribed for ease of access.¹⁰⁰⁰

A party that does not prevail in the First Instance Division may appeal to the court's Appellate Division. The Appellate Division has the power to confirm, deny, or modify decisions of the First Instance Division.¹⁰⁰¹

The Member State concerned is responsible for implementing any EACJ judgment.¹⁰⁰² If the Treaty confers jurisdiction on the EACJ, jurisdiction of national courts is ousted. EACJ decisions on the interpretation and application of the Treaty have precedence over decisions of national courts on similar matters.¹⁰⁰³

Parties to a dispute may be represented by a lawyer of their choice, so long as the lawyer is competent to appear before a superior court in the Member State concerned.¹⁰⁰⁴ The court may allow third parties, such as Member States, the Secretary General of the Community, a resident of a Member State, or a civil society organization to participate in the proceedings as *amicus curiae*.¹⁰⁰⁵ The court may issue protective interim measures or "any directions which it considers necessary or desirable."¹⁰⁰⁶

How to File a Case with the EAJC

An application should include:¹⁰⁰⁷

- the designation, name, address, and (where applicable) the residence of both the applicant and the respondent(s);
- the subject matter of the application and a summary of the law on which the application is based;
- the nature of any supporting evidence offered, if appropriate;
- the remedy the applicant seeks; and
- documentary evidence of any act, regulation, directive, decision, or action of a Partner State, if the application seeks annulment thereof.¹⁰⁰⁸

For more details on filing a case and court proceedings, consult the *EAJC Court User Guide*:

<http://eacj.huriweb.org/wp-content/uploads/2013/11/EACJ-Court-Users-Guide-September-2013.pdf>

⁹⁹⁹ East African Court of Justice Rules of Procedure, Rule 60(1). Also available online at http://www.eacj.org/docs/RULES_OF_PROCEDURE_2013.pdf.

¹⁰⁰⁰ *Ibid.*, Rule 59(2).

¹⁰⁰¹ East African Court, *Court User's Guide*, *supra* note 997, at 12.

¹⁰⁰² East African Community, "East African Court of Justice - Review of Judgments," accessed Nov. 2013,

http://www.eac.int/index.php?option=com_content&id=24&Itemid=156&limitstart=5.

¹⁰⁰³ "Chapter 8: Article 33: Jurisdiction of National Courts," in *Treaty Establishing the East African Community*, accessed Jan. 16, 2014,

http://eac.int/treaty/index.php?option=com_content&view=article&id=99&Itemid=218.

¹⁰⁰⁴ *Ibid.*, Art. 37.

¹⁰⁰⁵ *Ibid.*, Art. 40.

¹⁰⁰⁶ *Ibid.*, Art. 39.

¹⁰⁰⁷ East African Court of Justice Rules of Procedure, *supra* note 999, Rule 24(1)–(2).

¹⁰⁰⁸ *Ibid.*, Rule 24(3).

Resources for Litigating in the East African Court of Justice

EACJ Website

<http://www.eacj.org/>

EACJ Court User Guide

<http://eacj.huriweb.org/wp-content/uploads/2013/11/EACJ-Court-Users-Guide-September-2013.pdf>

EACJ Rules of Procedure

http://www.eacj.org/docs/RULES_OF_PROCEDURE_2013.pdf

Send applications to:

East African Court of Justice

P.O. Box 1096

Arusha, Tanzania

eacj@eachq.org

Tel: +255 27 2506093

+255 27 2162149

Fax: +255 27 2509493

+255 27 2162188

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Chapter 10

page 243 Amy Bergquist, The Advocates for Human Rights

page 249 European Court of Human Rights

- URL: http://echr.coe.int/Documents/Case_processing_ENG.pdf (modified for print)

page 259 Jessica Gonzalez Documentary, <http://vimeo.com/user1838369>

page 265 Marc Veraart Flickr stream

- URL: <http://www.flickr.com/photos/69049772@N00/3666527474/in/photolist-6zZUSW-8thJYC-dnggwB-dXzmNz-9Nxpqo-6zYz8j-6zUrBi-6zYxNw-6zUqVp-6zYwsW-6zYyEb-6zYxsQ-6zUsB4-6zUsoK-9aBma3-9aBm6C-9aycNc-9aycSH-9aycNX-9aBm4L-9aycR6-9aBmf3-9aBm3A-6Y6Pha-6zZY9u-9sV3L9-dnqsB5-Gx7K9-6zYvAE-6zYwzE-6zUsZF-6zYAXw-6zYALE-8thUnq-8teUDv-dXERGN-6KqxPK-6KqxPR-6KqxQa-aYPcTk-9aBmdS-9aycXi-9aycTn-9aycVD-aYP8jB-aYP5cV-6zYAYm-6zYAnh-9aycWH-9aBmdh-c3uPmm>
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Page 266 The Advocacy Project Flickr stream

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page 267 Juan Manuel Herrera/OAS, OEA/OAS Flickr stream

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page 290 GovernmentZA Flickr feed

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